Acts of the Parliament of India

For the Year 2017

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रजिस्ट्री सं॰ डी॰ एल॰—(एन)04/0007/2003—17 REGISTERED NO. DL—(N)04/0007/2003—17

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II — खण्ड 1
PART II — Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं॰ 1] नई दिल्ली, बृहस्पतिवार, फरवरी 16, 2017/माघ 27, 1938 (शक)
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 16*th February,* 2017/*Magha* 27, 1938 (*Saka*)

The following Act of Parliament received the assent of the President on the 15th February, 2017, and is hereby published for general information:—

THE PAYMENT OF WAGES (AMENDMENT) ACT, 2017

No. 1 of 2017

[15th February, 2017]

An Act further to amend the Payment of Wages Act, 1936.

Be it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Payment of Wages (Amendment) Act, 2017.

(*2*) It shall be deemed to have come into force on the 28th day of December, 2016.

Substitution of section 6 of Act 4 of 1936.

2. For section 6 of the Payment of Wages Act, 1936, the following section shall be substituted, namely:—

Wages to be paid in current coin or currency notes or by cheque or crediting in bank account.

"6. All wages shall be paid in current coin or currency notes or by cheque or by crediting the wages in the bank account of the employee:

Provided that the appropriate Government may, by notification in the Official Gazette, specify the industrial or other establishment, the employer of which shall pay to every person employed in such industrial or other establishment, the wages only by cheque or by crediting the wages in his bank account.".

Repeal and savings.

3. (*1*) The Payment of Wages (Amendment) Ordinance, 2016 is hereby repealed. Ord. 9 of 2016.

(*2*) Notwithstanding such repeal, anything done or any action taken under the Payment of Wages Act, 1936, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Act, as amended by this Act. 4 of 1936.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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भारत का राजपत्र
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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 28*th February,* 2017/*Phalguna* 9, 1938 (*Saka*)

The following Act of Parliament received the assent of the President on the 27th February, 2017, and is hereby published for general information:—

THE SPECIFIED BANK NOTES (CESSATION OF LIABILITIES) ACT, 2017

NO. 2 OF 2017

[27*th February*, 2017]

An Act to provide in the public interest for the cessation of liabilities on the specified bank notes and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Specified Bank Notes (Cessation of Liabilities) Act, 2017.

(*2*) It shall be deemed to have come into force on the 31st day of December, 2016.

Definitions.

2. (*1*) In this Act, unless the context otherwise requires,—

(*a*) "appointed day" means the 31st day of December, 2016;

(*b*) "grace period" means the period to be specified by the Central Government, by notification, during which the specified bank notes can be deposited in accordance with this Act;

(*c*) "notification" means a notification published in the Official Gazette;

(*d*) "Reserve Bank" means the Reserve Bank of India constituted by the Central Government under section 3 of the Reserve Bank of India Act, 1934; 2 of 1934.

(*e*) "specified bank note" means a bank note of the denominational value of five hundred rupees or one thousand rupees of the series existing on or before the 8th day of November, 2016.

(*2*) The words and expressions used and not defined in this Act but defined in the Reserve Bank of India Act, 1934 or the Banking Regulation Act, 1949 shall have the meanings respectively assigned to them in those Acts. 2 of 1934. 10 of 1949.

Specified bank notes to cease to be liability of Reserve Bank or Central Government.

3. On and from the appointed day, notwithstanding anything contained in the Reserve Bank of India Act, 1934 or any other law for the time being in force, the specified bank notes which have ceased to be legal tender, in view of the notification of the Government of India in the Ministry of Finance, number S.O. 3407(*E*), dated the 8th November, 2016, issued under sub-section (*2*) of section 26 of the Reserve Bank of India Act, 1934, shall cease to be liabilities of the Reserve Bank under section 34 and shall cease to have the guarantee of the Central Government under sub-section (*1*) of section 26 of the said Act. 2 of 1934.

Exchange of specified bank notes.

4. (*1*) Notwithstanding anything contained in section 3, the following persons holding specified bank notes on or before the 8th day of November, 2016 shall be entitled to tender within the grace period with such declarations or statements, at such offices of the Reserve Bank or in such other manner as may be specified by it, namely:—

(*i*) a citizen of India who makes a declaration that he was outside India between the 9th November, 2016 to 30th December, 2016, subject to such conditions as may be specified, by notification, by the Central Government; or

(*ii*) such class of persons and for such reasons as may be specified by notification, by the Central Government.

(*2*) The Reserve Bank may, if satisfied, after making such verifications as it may consider necessary that the reasons for failure to deposit the notes within the period specified in the notification referred to in section 3, are genuine, credit the value of the notes in his Know Your Customer compliant bank account in such manner as may be specified by it.

(*3*) Any person, aggrieved by the refusal of the Reserve Bank to credit the value of the notes under sub-section (*2*), may make a representation to the Central Board of the Reserve Bank within fourteen days of the communication of such refusal to him.

Explanation.—For the purposes of this section, the expression "Know Your Customer compliant bank account" means the account which complies with the conditions specified in the regulations made by the Reserve Bank under the Banking Regulation Act, 1949. 10 of 1949.

Prohibition on holding transferring or receiving specified bank notes.

5. On and from the appointed day, no person shall, knowingly or voluntarily, hold, transfer or receive any specified bank note:

Provided that nothing contained in this section shall prohibit the holding of specified bank notes—

(*a*) by any person—

(*i*) up to the expiry of the grace period; or

(*ii*) after the expiry of the grace period,—

(*A*) not more than ten notes in total, irrespective of the denomination; or

(*B*) not more than twenty-five notes for the purposes of study, research or numismatics;

(*b*) by the Reserve Bank or its agencies, or any other person authorised by the Reserve Bank;

(*c*) by any person on the direction of a court in relation to any case pending in the court.

Penalty for contravention of section 4.

6. Whoever knowingly and wilfully makes any declaration or statement specified under sub-section (*1*) of section 4, which is false in material particulars, or omits to make a material statement, or makes a statement which he does not believe to be true, shall be punishable with fine which may extend to fifty thousand rupees or five times the amount of the face value of the specified bank notes tendered, whichever is higher.

Penalty for contravention of section 5.

7. Whoever contravenes the provisions of section 5 shall be punishable with fine which may extend to ten thousand rupees or five times the amount of the face value of the specified bank notes involved in the contravention, whichever is higher.

Offences by companies.

8. (*1*) Where a person committing a contravention or default referred to in section 6 or section 7 is a company, every person who, at the time the contravention or default was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention or default and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention or default was committed without his knowledge or that he had exercised all due diligence to prevent the contravention or default.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the same was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary, or other officer or employee of the company, such director, manager, secretary, other officer or employee shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(*a*) "a company" means any body corporate and includes a firm, a trust, a co-operative society and other association of individuals;

(*b*) "director", in relation to a firm or trust, means a partner in the firm or a beneficiary in the trust.

Special provisions relating to offences.

2 of 1974.

9. Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, the court of a Magistrate of the First Class or the court of a Metropolitan Magistrate may impose a fine, for contravention of the provisions of this Act.

Protection of action taken in good faith.

10. No suit, prosecution or other legal proceeding shall lie against the Government, the Reserve Bank or any of their officers for anything done or intended to be done in good faith under this Act.

Power to make rules.

11. (*1*) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties.

12. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the date of commencement of this Act.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Repeal and savings.

13. (*1*) The Specified Bank Notes (Cessation of Liabilities) Ordinance, 2016 is hereby repealed. Ord. 10 of 2016.

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 14*th March,* 2017/*Phalguna* 23, 1938 (*Saka*)

The following Act of Parliament received the assent of the President on the 14th March, 2017 and is hereby published for general information:—

THE ENEMY PROPERTY (AMENDMENT AND VALIDATION) ACT, 2017

No. 3 of 2017

[14*th March*, 2017.]

An Act further to amend the Enemy Property Act, 1968 and the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

Be it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Enemy Property (Amendment and Validation) Act, 2017.

(*2*) Save as otherwise provided in this Act, it shall be deemed to have come into force on the 7th day of January, 2016.

Amendment of section 2.

34 of 1968.

2. On and from the date of commencement of the Enemy Property Act, 1968 (hereinafter referred to as the principal Act), in section 2,—

(*i*) in clause (*b*),—

(*I*) for the words "an enemy subject", the words "an enemy subject including his legal heir and successor whether or not a citizen of India or the citizen of a country which is not an enemy or the enemy, enemy subject or his legal heir and successor who has changed his nationality" shall be substituted and shall always be deemed to have been substituted;

(*II*) for the words "an enemy firm", the words "an enemy firm, including its succeeding firm whether or not partners or members of such succeeding firm are citizen of India or the citizen of a country which is not an enemy or such firm which has changed its nationality" shall be substituted and shall always be deemed to have been substituted;

(*III*) for the words "does not include a citizen of India", the words "does not include a citizen of India other than those citizens of India, being the legal heir and successor of the "enemy" or "enemy subject" or "enemy firm" shall be substituted and shall always be deemed to have been substituted;

(*IV*) the following *Explanations* shall be inserted and shall always be deemed to have been inserted at the end, namely:—

'*Explanation* 1.—For the purposes of this clause, the expression "does not include a citizen of India" shall exclude and shall always be deemed to have been excluded those citizens of India, who are or have been the legal heir and successor of an "enemy" or an "enemy subject" or an "enemy firm" which or who has ceased to be an enemy due to death, extinction, winding up of business or change of nationality or that the legal heir and successor is a citizen of India or the citizen of a country which is not an enemy.

Explanation 2.—For the purposes of this clause, it is hereby clarified that nothing contained in this Act shall affect any right of the legal heir and successor referred to in this clause (not being inconsistent to the provisions of this Act) which have been conferred upon him under any other law for the time being in force.';

(*ii*) in clause (*c*), in the proviso,—

(*I*) after the words "dies in the territories to which this Act extends", the words "or dies in any territory outside India" shall be inserted and shall always be deemed to have been inserted;

(*II*) the following *Explanations* shall be inserted and shall always be deemed to have been inserted at the end, namely:—

'*Explanation* 1.— For the purposes of this clause, it is hereby clarified that "enemy property" shall, notwithstanding that the enemy or the enemy subject or the enemy firm has ceased to be an enemy due to death, extinction, winding up of business or change of nationality or that the legal heir and successor is a citizen of India or the citizen of a country which is not an enemy, continue and always be deemed to be continued as an enemy property.

Explanation 2.—For the purposes of this clause, the expression "enemy property" shall mean and include and shall be deemed to have always meant and included all rights, titles and interest in, or any benefit arising out of, such property.'.

Amendment of section 5.

3. On and from the date of commencement of the principal Act, in section 5, after sub-section (*2*), the following shall be inserted, and shall always be deemed to have been inserted, namely:—

'(*3*) The enemy property vested in the Custodian shall, notwithstanding that the enemy or the enemy subject or the enemy firm has ceased to be an enemy due to death, extinction, winding up of business or change of nationality or that the legal heir and successor is a citizen of India or the citizen of a country which is not an enemy, continue to remain, save as otherwise provided in this Act, vested in the Custodian.

Explanation.—For the purposes of this sub-section, "enemy property vested in the Custodian" shall include and shall always be deemed to have been included all rights, titles, and interest in, or any benefit arising out of, such property vested in him under this Act.'.

Insertion of new section 5A.

4. After section 5 of the principal Act, the following section shall be inserted, namely:—

Issue of certificate by Custodian.

"5A. The Custodian may, after making such inquiry as he deems necessary, by order, declare that the property of the enemy or the enemy subject or the enemy firm described in the order, vests in him under this Act and issue a certificate to this effect and such certificate shall be the evidence of the facts stated therein.".

Insertion of new section 5B.

5. On and from the date of commencement of the principal Act, after section 5A (as so inserted by section 4 of this Act), the following shall be inserted and shall always be deemed to have been inserted, namely:—

Law of succession or any custom or usage not to apply to enemy property.

'5B. Nothing contained in any law for the time being in force relating to succession or any custom or usage governing succession of property shall apply in relation to the enemy property under this Act and no person (including his legal heir and successor) shall have any right and shall be deemed not to have any right (including all rights, titles and interests or any benefit arising out of such property) in relation to such enemy property.

Explanation.—For the purposes of this section, the expressions "custom" and "usage" signify any rule which, having been continuously and uniformly observed for a long time, has obtained the force of law in the matters of succession of property.'.

Amendment of section 6.

6. On and from the date of commencement of the principal Act, for section 6 of the principal Act, the following section shall be substituted and shall always be deemed to have been substituted, namely:—

Prohibition to transfer any property vested in Custodian by an enemy, enemy subject or enemy firm.

"6. (*1*) No enemy or enemy subject or enemy firm shall have any right and shall never be deemed to have any right to transfer any property vested in the Custodian under this Act, whether before or after the commencement of this Act and any transfer of such property shall be void and shall always be deemed to have been void.

(*2*) Where any property vested in the Custodian under this Act had been transferred, before the commencement of the Enemy Property (Amendment and Validation) Act, 2017, by an enemy or enemy subject or enemy firm and such transfer has been declared, by an order, made by the Central Government, to be void, and the property had been vested or deemed to have been vested in the Custodian [by virtue of the said order made under section 6, as it stood before its substitution by section 6 of the Enemy Property (Amendment and Validation) Act, 2017] such property shall, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, continue to vest or be deemed to have been vested in the Custodian and no person (including an enemy or enemy subject or enemy firm) shall have any right or deemed to have any right (including all rights, titles and interests or any benefit arising out of such property) over the said property vested or deemed to have been vested in the Custodian.".

Amendment of section 8.

7. In section 8 of the principal Act,—

(*i*) on and from the date of commencement of the principal Act, for sub-section (*1*), the following sub-section shall be substituted and shall always be deemed to have been substituted, namely:—

"(*1*) With respect to the property vested in the Custodian under this Act, the Custodian may take or authorise the taking of such measures as he considers necessary or expedient for preserving such property till it is disposed of in accordance with the provisions of this Act.";

(*ii*) in sub-section (*2*),—

(*a*) after clause (*i*), the following clause shall be inserted, namely:—

"(*ia*) fix and collect the rent, standard rent, lease rent, licence fee or usage charges, as the case may be, in respect of enemy property;";

(*b*) after clause (*iv*), the following clause shall be inserted, namely:—

"(*iva*) secure vacant possession of the enemy property by evicting the unauthorised or illegal occupant or trespasser and remove unauthorised or illegal constructions, if any.".

Insertion of new section 8A.

8. After section 8 of the principal Act, the following section shall be inserted, namely:—

Sale of property by Custodian.

"8A. (*1*) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority or any law for the time being in force, the Custodian may, within such time as may be specified by the Central Government in this behalf, dispose of whether by sale or otherwise, as the case may be, with prior approval of the Central Government, by general or special order, enemy properties vested in him immediately before the date of commencement of the Enemy Property (Amendment and Validation) Act, 2017 in accordance with the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Act, 2017.

(*2*) The Custodian may, for the purpose of disposal of enemy property under sub-section (*1*), make requisition of the services of any police officer to assist him and it shall be the duty of such officer to comply with such requisition.

(*3*) The Custodian shall, on disposal of enemy property under sub-section (*1*) immediately deposit the sale proceeds into the Consolidated Fund of India and intimate details thereof to the Central Government.

(*4*) The Custodian shall send a report to the Central Government at such intervals, as it may specify, for the enemy properties disposed of under sub-section (*1*), containing such details, (including the price for which such property has been sold and the particulars of the buyer to whom the properties have been sold or disposed of and the details of the proceeds of sale or disposal deposited into the Consolidated Fund of India) as it may specify.

(*5*) The Central Government may, by general or special order, issue such directions to the Custodian on the matters relating to disposal of enemy property under sub-section (*1*) and such directions shall be binding upon the Custodian and the buyer of the enemy properties referred to in that sub-section and other persons connected to such sale or disposal.

(*6*) The Central Government may, by general or special order, make such guidelines for disposal of enemy property under sub-section (*1*).

(*7*) Notwithstanding anything contained in this section, the Central Government may direct that disposal of enemy property under sub-section (*1*) shall be made by any other authority or Ministry or Department instead of Custodian and in that case all the provisions of this section shall apply to such authority or Ministry or Department in respect of disposal of enemy property under sub-section (*1*).

(*8*) Notwithstanding anything contained in sub-sections (*1*) to (*7*), the Central Government may deal with or utilise the enemy property in such manner as it may deem fit.".

Insertion of new section 10A.

9. After section 10 of the principal Act, the following section shall be inserted, namely:—

Power to issue certificate of sale.

"10A. (*1*) Where the Custodian proposes to sell any enemy immovable property vested in him, to any person, he may on receipt of the sale proceeds of such property, issue a certificate of sale in favour of such person and such certificate of sale shall,

notwithstanding the fact that the original title deeds of the property have not been handed over to the transferee, be valid and conclusive proof of ownership of such property by such person.

(*2*) Notwithstanding anything contained in any law for the time being in force, the certificate of sale, referred to in sub-section (*1*), issued by the Custodian shall be a valid instrument for the registration of the property in favour of the transferee and the registration in respect of enemy property for which such certificate of sale had been issued by the Custodian, shall not be refused on the ground of lack of original title deeds in respect of such property or for any such other reason.".

Amendment of section 11.

10. In section 11 of the principal Act, after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) The Custodian, Deputy Custodian or Assistant Custodian shall have, for the purposes of exercising powers or discharging his functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure,1908, while dealing with any case under this Act, in respect of the following matters, namely:—

5 of 1908.

(*a*) requiring the discovery and inspection of documents;

(*b*) enforcing the attendance of any person, including any officer dealing with land, revenue and registration matters, banking officer or officer of a company and examining him on oath;

(*c*) compelling the production of books, documents and other records; and

(*d*) issuing commissions for the examination of witnesses or documents.".

Amendment of section 17.

11. In section 17 of the principal Act, in sub-section (*1*), for the words "two per centum", at both the places where they occur, the words "five per centum" shall be substituted.

Substitution of new section for section 18.

12. For section 18 of the principal Act, the following section shall be substituted, namely:—

Transfer of property vested as enemy property in certain cases.

"18. The Central Government may, on receipt of a representation from a person, aggrieved by an order vesting a property as enemy property in the Custodian within a period of thirty days from the date of receipt of such order or from the date of its publication in the Official Gazette, whichever is earlier and after giving a reasonable opportunity of being heard, if it is of the opinion that any enemy property vested in the Custodian under this Act and remaining with him was not an enemy property, it may by general or special order, direct the Custodian that such property vested as enemy property in the Custodian may be transferred to the person from whom such property was acquired and vested in the Custodian.".

Insertion of new section 18A.

13. On and from the date of commencement of the principal Act, after section 18 (as so substituted by section 12 of this Act), the following section shall be inserted and shall always be deemed to have been inserted, namely:—

Income not liable to be returned.

"18A. Any income received in respect of the enemy property by the Custodian shall not, notwithstanding that such property had been transferred by way of sale under section 8A or section 18, as the case may be, to any other person, be returned or liable to be returned to such person or any other person.".

Insertion of new sections 18B and 18C.

14. After section 18A of the principal Act, (as so inserted by section 13 of this Act), the following sections shall be inserted, namely:—

Exclusion of jurisdiction of civil courts.

"18B. Save as otherwise provided in this Act, no civil court or authority shall have jurisdiction to entertain any suit or proceedings in respect of any property, subject matter of this Act, as amended by the Enemy Property (Amendment and Validation) Act, 2017", or any action taken by the Central Government or the Custodian in this regard.

Appeal to High Court.

18C. Any person aggrieved by an order of the Central Government under section 18 of this Act, may, within a period of sixty days from the date of communication or receipt of the order, file an appeal to the High Court on any question of fact or law arising out of such orders, and upon such appeal the High Court may, after hearing the parties, pass such orders thereon as it thinks proper:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period, allow it is to be filed within a further period not exceeding sixty days.

Explanation.—In this section, "High Court" means the High Court of a State or Union territory in which the property referred to in section 18 is situated.".

Amendment of section 20.

15. In section 20 of the principal Act, for the words "five hundred rupees" at both the places where they occur, the words ''ten thousand rupees'' shall be substituted.

Amendment of section 22.

16. On and from the date of commencement of the principal Act, in section 22 of the principal Act, after the words "for the time being in force", the brackets and words "(including any law of succession or any custom or usage in relation to succession of property)" shall be inserted and shall always be deemed to have been inserted.

Insertion of new section 22A. Validation.

17. After section 22 of the principal Act, the following section shall be inserted and shall always be deemed to have been inserted with effect from the 2nd July, 2010, namely:—

"22A. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(*a*) the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Act, 2017, shall have and shall always be deemed to have effect for all purposes as if the provisions of this Act, as amended by the said Act, had been in force at all material times;

(*b*) any enemy property divested from the Custodian to any person under the provisions of this Act, as it stood immediately before the commencement of the Enemy Property (Amendment and Validation) Act, 2017, shall stand transferred to and vest or continue to vest, free from all encumbrances, in the Custodian in the same manner as it was vested in the Custodian before such divesting of enemy property under the provisions of this Act, as if the provisions of this Act, as amended by the aforesaid Act, were in force at all material times;

(*c*) no suit or other proceedings shall, without prejudice to the generality of the foregoing provisions, be maintained or continued in any court or tribunal or authority for the enforcement of any decree or order or direction given by such court or tribunal or authority directing divestment of enemy property from the Custodian vested in him under section 5 of this Act, as it stood before the commencement of the Enemy Property (Amendment and Validation) Act, 2017, and such enemy property shall continue to vest in the Custodian under section 5 of this Act, as amended by the aforesaid Act, as the said section, as amended by the aforesaid Act was in force at all material times;

(*d*) any transfer of any enemy property, vested in the Custodian, by virtue of any order of attachment, seizure or sale in execution of decree of a civil court or orders of any tribunal or other authority in respect of enemy property vested in the Custodian which is contrary to the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Act, 2017, shall be deemed to be null and void and notwithstanding such transfer, continue to vest in the Custodian under this Act.".

Amendment of section 23.

18. In section 23 of the principal Act, in sub-section (*2*), clause (*d*) shall be omitted.

Power to remove difficulties.

19. (*1*) If any difficulty arises in giving effect to the provisions of the principal Act, as amended by the Enemy Property (Amendment and Validation) Act, 2017, the Central Government may, by order, published in the Official Gazette, make such provisions not

inconsistent with the provisions of this Act, as amended by the Enemy Property (Amendment and Validation) Act, 2017, or the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, as amended by the Enemy Property (Amendment and Validation) Act, 2017, as may appear to be necessary for removing the difficulty:

40 of 1971.

Provided that no such order shall be made under this section after the expiry of two years from the date on which the Enemy Property (Amendment and Validation) Bill, 2017, replacing the Enemy Property (Amendment and Validation) Fifth Ordinance, 2016, receives the assent of the President.

Ord. 8 of 2016.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Amendment of sections 2 and 3 of Act 40 of 1971.

20. In the Public Premises (Eviction of Unauthorised Occupants) Act,1971,—

(*a*) in section 2, in clause (*e*), after sub-clause (*3*), the following sub-clause shall be inserted, namely:—

"(*4*) any premises of the enemy property as defined in clause (*c*) of section 2 of the Enemy Property Act, 1968.";

34 of 1968.

(*b*) in section 3, in clause (*a*),—

(*i*) in the second proviso, the word "and" shall be omitted;

(*ii*) after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that the Custodian, Deputy Custodian and Assistant Custodian of the enemy property appointed under section 3 of the Enemy Property Act, 1968 shall be deemed to have been appointed as the Estate Officer in respect of those enemy property, being the public premises, referred to in sub-clause (*4*) of clause (*e*) of section 2 of this Act for which they had been appointed as the Custodian, Deputy Custodian and Assistant Custodian under section 3 of the Enemy Property Act, 1968.".

34 of 1968.

Savings.

21. Notwithstanding the cessation of the operation of the Enemy Property (Amendment and Validation) Ordinance, 2010, anything done or any action taken under the Enemy Property Act, 1968, or the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, as amended by the Enemy Property (Amendment and Validation) Ordinance, 2010, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by the Enemy Property (Amendment and Validation) Ordinance, 2010, as if the provisions of this Act, as amended by the said Ordinance had been in force at all material times.

Ord. 4 of 2010.
34 of 1968.
40 of 1971.

Repeal and savings.

22. (*1*) The Enemy Property (Amendment and Validation) Fifth Ordinance, 2016 is hereby repealed.

Ord. 8 of 2016.

(*2*) Notwithstanding such repeal, anything done or any action taken under the Enemy Property Act, 1968 as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Act, as amended by this Act.

34 of 1968.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

UPLOADED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI–110002 AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI–110054.

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रजिस्ट्री सं॰ डी॰ एल॰—(एन)04/0007/2003—17 REGISTERED NO. DL—(N)04/0007/2003—17

भारत का राजपत्र
The Gazette of India

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सं॰ 4] नई दिल्ली, शुक्रवार, मार्च 24, 2017/चैत्र 3, 1939 (शक)
No. 4] NEW DELHI, FRIDAY, MARCH 24 , 2017/CHAITRA 3, 1939 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 24*th March,* 2017/*Chaitra* 3, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 24th March, 2017, and is hereby published for general information:—

THE APPROPRIATION ACT, 2017

NO. 4 OF 2017

[24*th March*, 2017.]

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of India for the services of the financial year 2017-18.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation Act, 2017. Short title.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of seventy-nine lakh sixty-seven thousand five hundred thirty-six crore and ninety-nine lakh rupees towards defraying the several charges which will come in the course of payment during the financial year 2017-18 in respect of the services specified in column 2 of the Schedule. Issue of Rs. 7967536, 99,00,000 out of the Consolidated Fund of India for the financial year 2017-18.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appropriation.

Construction of references to Ministries or Departments in the Schedule.

4. References to Ministries or Departments in the Schedule are to such Ministries or Departments as existing immediately before the 9th January, 2017 and shall, on or after that date, be construed as references to the appropriate Ministries or Departments as reconstituted from time to time.

THE SCHEDULE

(*See* sections 2, 3 and 4)

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	Department of Agriculture, Cooperation and Farmers' Welfare……	Revenue	52575,57,00,000	..	52575,57,00,000
		Capital	79,43,00,000	..	79,43,00,000
2	Department of Agricultural Research and Education ……..….	Revenue	6800,00,00,000	. .	6800,00,00,000
3	Department of Animal Husbandry, Dairying and Fisheries…….	Revenue	2877,48,00,000	. .	2877,48,00,000
		Capital	43,52,00,000	..	43,52,00,000
4	Department of Atomic Energy…….....	Revenue	13109,36,00,000	*1,00,00,000*	13110,36,00,000
		Capital	6505,58,00,000	*50,00,000*	6506,08,00,000
5	Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH)	Revenue	1425,35,00,000	..	1425,35,00,000
		Capital	3,30,00,000	..	3,30,00,000
6	Department of Chemicals and Petrochemicals	Revenue	273,39,00,000	..	273,39,00,000
		Capital	24,61,00,000	..	24,61,00,000
7	Department of Fertilisers…….	Revenue	74264,67,00,000	..	74264,67,00,000
		Capital	4,00,000	..	4,00,000
8	Department of Pharmaceuticals	Revenue	247,68,00,000	..	247,68,00,000
		Capital	6,00,000	..	6,00,000
9	Ministry of Civil Aviation……..	Revenue	781,34,00,000	..	781,34,00,000
		Capital	1920,70,00,000	..	1920,70,00,000
10	Ministry of Coal…….	Revenue	745,10,00,000	..	745,10,00,000
		Capital	700,00,00,000	..	700,00,00,000
11	Department of Commerce……..	Revenue	4314,55,00,000	*6,00,000*	4314,61,00,000
		Capital	151,22,00,000	..	151,22,00,000
12	Department of Industrial Policy and Promotion	Revenue	3599,19,00,000	..	3599,19,00,000
		Capital	9,68,00,000	..	9,68,00,000
13	Department of Posts	Revenue	25057,61,00,000	*60,00,000*	25058,21,00,000
		Capital	495,00,00,000	..	495,00,00,000
14	Department of Telecommunications…….	Revenue	35192,65,00,000	..	35192,65,00,000
		Capital	3386,00,00,000	..	3386,00,00,000
15	Department of Consumer Affairs	Revenue	3723,10,00,000	..	3723,10,00,000
		Capital	21,35,00,000	..	21,35,00,000
16	Department of Food and Public Distribution	Revenue	150952,64,00,000	..	150952,64,00,000
		Capital	50523,05,00,000	..	50523,05,00,000
17	Ministry of Corporate Affairs……..	Revenue	478,54,00,000	..	478,54,00,000
		Capital	29,50,00,000	..	29,50,00,000
18	Ministry of Culture…….	Revenue	2661,79,00,000	..	2661,79,00,000
		Capital	76,68,00,000	..	76,68,00,000
19	Ministry of Defence (Misc.)…….Revenue		27743,95,00,000	*76,00,000*	27744,71,00,000
		Capital	5488,69,00,000	*35,00,00,000*	5523,69,00,000
20	Defence Services (Revenue)…….	Revenue	195309,04,00,000	*107,34,00,000*	195416,38,00,000
21	Capital Outlay on Defence Services……..	Capital	86339,95,00,000	*148,06,00,000*	86488,01,00,000
22	Defence Pensions…….	Revenue	85737,31,00,000	*2,69,00,000*	85740,00,00,000
23	Ministry of Development of North Eastern Region……	Revenue	2084,45,00,000	..	2084,45,00,000
		Capital	708,00,00,000	..	708,00,00,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
24	Ministry of Drinking Water and Sanitation	Revenue	32333,06,00,000	..	32333,06,00,000
25	Ministry of Earth Sciences	Revenue	1608,44,00,000	..	1608,44,00,000
		Capital	115,00,00,000	..	115,00,00,000
26	Ministry of Electronics and Information Technology	Revenue	3690,00,00,000	..	3690,00,00,000
		Capital	349,00,00,000	..	349,00,00,000
27	Ministry of Environment, Forests and Climate Change	Revenue	4002,69,00,000	..	4002,69,00,000
		Capital	40,03,00,000	..	40,03,00,000
28	Ministry of External Affairs	Revenue	12648,26,00,000	*3,00,000*	12648,29,00,000
		Capital	2150,26,00,000	..	2150,26,00,000
29	Department of Economic Affairs	Revenue	4302,79,00,000	..	4302,79,00,000
		Capital	11153,05,00,000	..	11153,05,00,000
30	Department of Expenditure	Revenue	480,00,00,000	..	480,00,00,000
31	Department of Financial Services	Revenue	2731,99,00,000	..	2731,99,00,000
		Capital	16886,02,00,000	..	16886,02,00,000
32	Department of Investment and Public Asset Management (DIPAM)	Revenue	44,00,00,000	..	44,00,00,000
33	Department of Revenue	Revenue	834,83,00,000	*2,00,000*	834,85,00,000
		Capital	2,43,00,000	..	2,43,00,000
34	Direct Taxes	Revenue	5881,85,00,000	..	5881,85,00,000
		Capital	228,79,00,000	..	228,79,00,000
35	Indirect Taxes	Revenue	5861,44,00,000	*50,00,000*	5861,94,00,000
		Capital	228,07,00,000	..	228,07,00,000
36	Indian Audit and Accounts Department	Revenue	4163,03,00,000	*146,54,00,000*	4309,57,00,000
		Capital	12,67,00,000	..	12,67,00,000
	CHARGED.—*Interest Payments*	Revenue	..	*538078,39,00,000*	538078,39,00,000
	CHARGED.—*Repayment of Debt*	Capital	..	*5085304,76,00,000*	5085304,76,00,000
39	Pensions	Revenue	34990,00,00,000	*180,00,00,000*	35170,00,00,000
40	Transfers to States	Revenue	35500,00,00,000	*103101,38,00,000*	138601,38,00,000
		Capital	..	*18600,00,00,000*	18600,00,00,000
41	Ministry of Food Processing Industries	Revenue	800,00,00,000	..	800,00,00,000
42	Department of Health and Family Welfare	Revenue	47033,65,00,000	..	47033,65,00,000
		Capital	3508,81,00,000	..	3508,81,00,000
43	Department of Health Research	Revenue	1500,00,00,000	..	1500,00,00,000
44	Department of Heavy Industry	Revenue	984,99,00,000	..	984,99,00,000
		Capital	1615,01,00,000	..	1615,01,00,000
45	Department of Public Enterprises	Revenue	19,38,00,000	..	19,38,00,000
46	Ministry of Home Affairs	Revenue	4777,00,00,000	*3,00,000*	4777,03,00,000
		Capital	322,97,00,000	..	322,97,00,000
47	Cabinet	Revenue	730,00,00,000	..	730,00,00,000
48	Police	Revenue	67536,60,00,000	*8,34,00,000*	67544,94,00,000
		Capital	11171,64,00,000	*6,72,00,000*	11178,36,00,000
49	Andaman and Nicobar Islands	Revenue	3736,68,00,000	*1,00,000*	3736,69,00,000
		Capital	526,59,00,000	..	526,59,00,000
50	Chandigarh	Revenue	3802,35,00,000	*35,05,00,000*	3837,40,00,000
		Capital	332,85,00,000	*142,15,00,000*	475,00,00,000
51	Dadra and Nagar Haveli	Revenue	686,45,00,000	*1,00,000*	686,46,00,000
		Capital	389,16,00,000	..	389,16,00,000

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
52	Daman and Diu ..... Revenue	1288,09,00,000	*2,00,000*	1288,11,00,000
	Capital	296,95,00,000	..	296,95,00,000
53	Lakshadweep ..... Revenue	1083,26,00,000	..	1083,26,00,000
	Capital	165,65,00,000	..	165,65,00,000
54	Transfer to Delhi ..... Revenue	758,00,00,000	..	758,00,00,000
55	Transfer to Puducherry ..... Revenue	1411,01,00,000	..	1411,01,00,000
	Capital	72,00,00,000	..	72,00,00,000
56	Ministry of Housing and Urban Poverty Alleviation ..... Revenue	6406,00,00,000	..	6406,00,00,000
57	Department of School Education and Literacy ..... Revenue	67459,05,00,000	..	67459,05,00,000
58	Department of Higher Education ..... Revenue	33079,70,00,000	..	33079,70,00,000
	Capital	250,00,00,000	..	250,00,00,000
59	Ministry of Information and Broadcasting ..... Revenue	4379,90,00,000	..	4379,90,00,000
	Capital	29,10,00,000	..	29,10,00,000
60	Ministry of Labour and Employment ..... Revenue	7355,53,00,000	..	7355,53,00,000
	Capital	22,85,00,000	..	22,85,00,000
61	Ministry of Law and Justice ..... Revenue	3072,39,00,000	..	3072,39,00,000
	Capital	1071,27,00,000	. .	1071,27,00,000
62	Election Commission..... Revenue	113,00,00,000	. .	113,00,00,000
	Capital	33,00,00,000	. .	33,00,00,000
	CHARGED.—*Supreme Court of India* ..... Revenue	. .	*247,00,00,000*	247,00,00,000
64	Ministry of Micro, Small and Medium Enterprises..... Revenue	6471,36,00,000	. .	6471,36,00,000
	Capital	10,60,00,000	. .	10,60,00,000
65	Ministry of Mines..... Revenue	1054,55,00,000	*10,00,000*	1054,65,00,000
	Capital	158,84,00,000	. .	158,84,00,000
66	Ministry of Minority Affairs..... Revenue	4025,48,00,000	. .	4025,48,00,000
	Capital	170,00,00,000	. .	170,00,00,000
67	Ministry of New and Renewable Energy..... Revenue	10724,54,00,000	. .	10724,54,00,000
	Capital	90,00,00,000	. .	90,00,00,000
68	Ministry of Panchayati Raj ..... Revenue	790,79,00,000	. .	790,79,00,000
69	Ministry of Parliamentary Affairs ..... Revenue	17,88,00,000	. .	17,88,00,000
70	Ministry of Personnel, Public Grievances and Pensions ..... Revenue	1266,60,00,000	*4,49,00,000*	1271,09,00,000
	Capital	149,91,00,000	*2,00,00,000*	151,91,00,000
	CHARGED.—*Central Vigilance Commission*.. ..... Revenue	. .	*27,68,00,000*	27,68,00,000
72	Ministry of Petroleum and Natural Gas ..... Revenue	25310,37,00,000	. .	25310,37,00,000
	Capital	3847,20,00,000	. .	3847,20,00,000
73	Ministry of Planning ..... Revenue	252,09,00,000	. .	252,09,00,000
	Capital	43,00,000	. .	43,00,000
74	Ministry of Power ..... Revenue	11102,46,00,000	. .	11102,46,00,000
	Capital	3708,40,00,000	. .	3708,40,00,000
	CHARGED.—*Staff, Household and Allowances of the President* ..... Revenue	. .	*66,00,00,000*	66,00,00,000
76	Lok Sabha ..... Revenue	663,11,00,000	*1,15,00,000*	664,26,00,000
77	Rajya Sabha ..... Revenue	386,38,00,000	*1,02,00,000*	387,40,00,000
78	Secretariat of the Vice-President ..... Revenue	5,30,00,000	. .	5,30,00,000
	CHARGED.—*Union Public Service Commission* ..... Revenue	. .	*229,19,00,000*	229,19,00,000

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
80	Ministry of Railways ..... Revenue	236461,18,00,000	*158,23,00,000*	236619,41,00,000
	Capital	194303,45,00,000	*38,01,00,000*	194341,46,00,000
81	Ministry of Road Transport and Highways…… ..... Revenue	19903,48,00,000	..	19903,48,00,000
	Capital	100455,66,00,000	*10,00,00,000*	100465,66,00,000
82	Department of Rural Development …… ..... Revenue	170436,63,00,000	. .	170436,63,00,000
	Capital	5,25,00,000	..	5,25,00,000
83	Department of Land Resources …… ..... Revenue	2310,36,00,000	..	2310,36,00,000
84	Department of Science and Technology ..... Revenue	4821,76,00,000	*2,00,000*	4821,78,00,000
	Capital	15,59,00,000	..	15,59,00,000
85	Department of Biotechnology …… ..... Revenue	2222,11,00,000	..	2222,11,00,000
86	Department of Scientific and Industrial Research …….. ..... Revenue	4439,25,00,000	..	4439,25,00,000
	Capital	6,75,00,000	..	6,75,00,000
87	Ministry of Shipping …… ..... Revenue	1668,84,00,000	..	1668,84,00,000
	Capital	440,66,00,000	..	440,66,00,000
88	Ministry of Skill Development and Entrepreneurship…….. ..... Revenue	2766,11,00,000	..	2766,11,00,000
	Capital	250,03,00,000	..	250,03,00,000
89	Department of Social Justice and Empowerment…… ..... Revenue	6589,78,00,000	..	6589,78,00,000
	Capital	318,22,00,000	..	318,22,00,000
90	Department of Empowerment of Persons with Disabilities…….. ..... Revenue	822,26,00,000	..	822,26,00,000
	Capital	32,74,00,000	..	32,74,00,000
91	Department of Space …… ..... Revenue	4937,73,00,000	*60,00,000*	4938,33,00,000
	Capital	4154,98,00,000	*40,00,000*	4155,38,00,000
92	Ministry of Statistics and Programme Implementation …… ..... Revenue	4767,49,00,000	..	4767,49,00,000
	Capital	28,25,00,000	..	28,25,00,000
93	Ministry of Steel …….. ..... Revenue	44,14,00,000	..	44,14,00,000
94	Ministry of Textiles …….. ..... Revenue	6190,98,00,000	..	6190,98,00,000
	Capital	35,52,00,000	..	35,52,00,000
95	Ministry of Tourism …….. ..... Revenue	1839,69,00,000	..	1839,69,00,000
	Capital	1,08,00,000	..	1,08,00,000
96	Ministry of Tribal Affairs …….. Revenue	1133,23,00,000	*4136,09,00,000*	5269,32,00,000
	Capital	60,00,00,000	..	60,00,00,000
97	Ministry of Urban Development …….. ..... Revenue	17356,59,00,000	*88,30,00,000*	17444,89,00,000
	Capital	19242,81,00,000	*90,00,00,000*	19332,81,00,000
98	Ministry of Water Resources, River Development and Ganga Rejuvenation……. ..... Revenue	8405,99,00,000	*1,00,00,000*	8406,99,00,000
	Capital	799,29,00,000	*4,00,00,000*	803,29,00,000
99	Ministry of Women and Child Development…. ..... Revenue	22556,02,00,000	..	22556,02,00,000
	Capital	38,65,00,000	..	38,65,00,000
100	Ministry of Youth Affairs and Sports …… ..... Revenue	1888,46,00,000	..	1888,46,00,000
	Capital	54,75,00,000	..	54,75,00,000
	TOTAL:	2216531,75,00,000	*5751005,24,00,000*	7967536,99,00,000

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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भारत का राजपत्र
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सं॰ 5] नई दिल्ली, शुक्रवार, मार्च 24, 2017/ चैत्र 3, 1939 (शक)
No. 5] NEW DELHI, FRIDAY, MARCH 24, 2017/CHAITRA 3, 1939 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 24*th March,* 2017/*Chaitra* 3, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 24th March, 2017, and is hereby published for general information:—

THE APPROPRIATION (No. 2) ACT, 2017

No. 5 of 2017

[24*th March*, 2017.]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 2016-17.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (No. 2) Act, 2017. Short title.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of eleven lakh thirty-five thousand fifty-five crore and sixty-nine lakh rupees towards defraying the several charges which will come in course of payment during the financial year 2016-17 in respect of the services specified in column 2 of the Schedule. Issue of Rs. 1135055,69,00,000 out of the Consolidated Fund of India for the financial year 2016-17.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appropriation.

THE SCHEDULE

(*See* sections 2 and 3)

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Department of Agriculture, Cooperation and Farmers Welfare ..... Revenue	5233,96,00,000	..	5233,96,00,000
	Capital	22,21,00,000	..	22,21,00,000
2	Department of Agricultural Research and Education ..... Revenue	3,00,000	..	3,00,000
3	Department of Animal Husbandry, Dairying and Fisheries ..... Revenue	2,00,000	..	2,00,000
4	Atomic Energy ..... Revenue	298,87,00,000	..	298,87,00,000
	Capital	1124,03,00,000	..	1124,03,00,000
5	Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH) ..... Revenue	3,00,000	..	3,00,000
	Capital	5,00,00,000	..	5,00,00,000
6	Department of Chemicals and Petrochemicals ..... Revenue	39,00,000	..	39,00,000
7	Department of Fertilisers ..... Revenue	2,00,000	..	2,00,000
8	Department of Pharmaceuticals ..... Revenue	2,00,000	..	2,00,000
	Capital	100,00,00,000	..	100,00,00,000
9	Ministry of Civil Aviation ..... Revenue	1,00,000	..	1,00,000
	Capital	69,07,00,000	..	69,07,00,000
10	Ministry of Coal ..... Revenue	195,36,00,000	..	195,36,00,000
11	Department of Commerce ..... Revenue	4,00,000	..	4,00,000
	Capital	6,00,00,000	..	6,00,00,000
12	Department of Industrial Policy and Promotion ..... Revenue	1,00,000	..	1,00,000
13	Department of Posts ..... Revenue	150,41,00,000	*3,08,00,000*	153,49,00,000
	Capital	1,00,000	..	1,00,000
14	Department of Telecommunications ..... Revenue	3440,46,00,000	*4,27,00,000*	3444,73,00,000
	Capital	1,00,000	..	1,00,000
15	Department of Electronics and Information Technology . Revenue	97,62,00,000	..	97,62,00,000
	Capital	1,00,000	..	1,00,000
16	Department of Consumer Affairs ..... Revenue	3502,60,00,000	..	3502,60,00,000
17	Department of Food and Public Distribution ..... Revenue	14,26,00,000	*2,32,00,000*	16,58,00,000
	Capital	1,00,000	..	1,00,000
18	Ministry of Corporate Affairs ..... Revenue	5,37,00,000	..	5,37,00,000
19	Ministry of Culture ..... Revenue	3,00,000	..	3,00,000
20	Ministry of Defence (Misc.) ..... Revenue	1052,72,00,000	*1,45,00,000*	1054,17,00,000
	Capital	3,00,000	*77,00,00,000*	77,03,00,000
21	Defence Pensions ..... Revenue	3292,94,00,000	*36,00,000*	3293,30,00,000
22	Defence Services (Revenue) ..... Revenue	5551,91,00,000	..	5551,91,00,000
23	Capital Outlay on Defence Services ..... Capital	1,00,000	*2,46,00,000*	2,47,00,000
24	Ministry of Development of North Eastern Region ..... Revenue	92,90,00,000	..	92,90,00,000
25	Ministry of Drinking Water and Sanitation ..... Revenue	1,00,000	..	1,00,000
27	Ministry of Environment, Forests and Climate Change ... Revenue	11,91,00,000	..	11,91,00,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
28	Ministry of External Affairs	Revenue	1,00,000	..	1,00,000
29	Department of Economic Affairs	Revenue	5889,22,00,000	..	5889,22,00,000
		Capital	2,00,000	..	2,00,000
30	Department of Financial Services	Revenue	1,00,000	..	1,00,000
		Capital	3586,38,00,000	..	3586,38,00,000
	CHARGED.—*Interest Payments*	Revenue	..	*1112,35,00,000*	1112,35,00,000
32	Tranfers to States	Revenue	3000,00,00,000	..	3000,00,00,000
	CHARGED.—*Repayment of Debt*	Capital		1085437,69,00,000	1085437,69,00,000
36	Indian Audit and Accounts Department	Revenue	15,00,00,000	..	15,00,00,000
37	Department of Revenue	Revenue	7,02,00,000	..	7,02,00,000
		Capital	1,00,000	..	1,00,000
38	Direct Taxes	Revenue	280,17,00,000	..	280,17,00,000
39	Indirect Taxes	Revenue	280,00,00,000	..	280,00,00,000
41	Ministry of Food Processing Industries	Revenue	92,96,00,000	..	92,96,00,000
42	Department of Health and Family Welfare	Revenue	1448,47,00,000	..	1448,47,00,000
		Capital	1,00,000	..	1,00,000
43	Department of Health Research	Revenue	2,00,000	..	2,00,000
44	Department of Heavy Industry	Revenue	623,15,00,000	..	623,15,00,000
		Capital	400,02,00,000	..	400,02,00,000
46	Ministry of Home Affairs	Revenue	209,06,00,000	..	209,06,00,000
48	Police	Revenue	965,08,00,000	..	965,08,00,000
50	Ministry of Housing and Urban Poverty Alleviation	Revenue	2,00,000	..	2,00,000
51	Department of School Education and Literacy	Revenue	5,00,000	..	5,00,000
52	Department of Higher Education	Revenue	11,21,00,000	..	11,21,00,000
53	Ministry of Information and Broadcasting	Revenue	57,36,00,000	..	57,36,00,000
54	Ministry of Labour and Employment	Revenue	1,00,000	..	1,00,000
56	Law and Justice	Revenue	2,00,000	..	2,00,000
58	Ministry of Micro, Small and Medium Enterprises	Revenue	1697,90,00,000	..	1697,90,00,000
59	Ministry of Mines	Revenue	1,00,000	..	1,00,000
60	Ministry of Minority Affairs	Revenue	1,00,000	..	1,00,000
61	Ministry of New and Renewable Energy	Revenue	1,00,000	..	1,00,000
67	Ministry of Planning	Revenue	1,00,000	..	1,00,000
68	Ministry of Power	Revenue	585,90,00,000	..	585,90,00,000
		Capital	296,26,00,000	..	296,26,00,000
70	Lok Sabha	Revenue	..	*15,00,000*	15,00,000
74	Ministry of Road Transport and Highways	Revenue	2041,41,00,000	..	2041,41,00,000
		Capital	1,00,000	..	1,00,000
75	Department of Rural Development	Revenue	898,98,00,000	..	898,98,00,000
77	Department of Science and Technology	Revenue	2,00,000	..	2,00,000
78	Department of Scientific and Industrial Research	Revenue	1,76,00,000	..	1,76,00,000
80	Ministry of Shipping	Revenue	30,05,00,000	..	30,05,00,000
		Capital	28,37,00,000	..	28,37,00,000

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
81	Ministry of Skill Development and Entrepreneurship .. Revenue	1,00,000	..	1,00,000
82	Department of Social Justice and Empowerment ..... Revenue	30,45,00,000	..	30,45,00,000
83	Department of Empowerment of Persons with Disabilities ..... Revenue	3,00,000	..	3,00,000
84	Department of Space ..... Revenue	299,14,00,000	..	299,14,00,000
	Capital	1,00,000	..	1,00,000
85	Ministry of Statistics and Programme Implementation . Revenue	1,00,000	..	1,00,000
86	Ministry of Steel ..... Revenue	200,00,00,000	*110,00,00,000*	310,00,00,000
87	Ministry of Textiles ..... Revenue	4,00,000	..	4,00,000
88	Ministry of Tourism ..... Revenue	1,00,000	..	1,00,000
89	Ministry of Tribal Affairs ..... Revenue	1,51,00,000	*121,17,00,000*	122,68,00,000
90	Andaman and Nicobar Islands ..... Revenue	620,43,00,000	..	620,43,00,000
	Capital	9,00,000	..	9,00,000
91	Chandigarh ..... Revenue	30,96,00,000	..	30,96,00,000
92	Dadra and Nagar Haveli ..... Revenue	58,10,00,000	..	58,10,00,000
	Capital	2,00,000	..	2,00,000
93	Daman and Diu ..... Capital	3,00,00,000	..	3,00,00,000
94	Lakshadweep ..... Revenue	1,00,000	..	1,00,000
95	Ministry of Urban Development ..... Revenue	1,00,000	..	1,00,000
	Capital	5,00,000	*1,60,00,000*	1,65,00,000
96	Ministry of Water Resources, River Development and Ganga Rejuvenation ..... Revenue	6,01,00,000	*40,00,000*	6,41,00,000
	Capital	1,00,000	..	1,00,000
97	Ministry of Women and Child Development ..... Revenue	217,20,00,000	..	217,20,00,000
98	Ministry of Yourth Affairs and Sports ..... Revenue	2,00,000	..	2,00,000
	TOTAL:	48181,39,00,000	*1086874,30,00,000*	1135055,69,00,000

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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सं॰ 6] नई दिल्ली, मंगलवार, मार्च 28, 2017/चैत्र 7, 1939 (शक)
No. 6] NEW DELHI, TUESDAY, MARCH 28, 2017/CHAITRA 7, 1939 (SAKA)

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 28*th March,* 2017/*Chaitra* 7, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 27th March, 2017, and is hereby published for general information:—

THE MATERNITY BENEFIT (AMENDMENT) ACT, 2017

No. 6 OF 2017

[27*th March*, 2017.]

An Act further to amend the Maternity Benefit Act, 1961.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Maternity Benefit (Amendment) Act, 2017.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint :

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Amendment of section 3.

53 of 1961.

2. In the Maternity Benefit Act, 1961 (hereinafter referred to as the principal Act), in section 3, after clause (*b*), the following clause shall be inserted, namely:—

'(*ba*) "commissioning mother" means a biological mother who uses her egg to create an embryo implanted in any other woman;'.

Amendment of section 5.

3. In the principal Act, in section 5,—

(*A*) in sub-section (*3*)—

(*i*) for the words "twelve weeks of which not more than six weeks", the

words ''twenty-six weeks of which not more than eight weeks'' shall be substituted;

(*ii*) after sub-section (*3*) and before the first proviso, the following proviso shall be inserted, namely:—

''Provided that the maximum period entitled to maternity benefit by a woman having two or more than two surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery;'';

(*iii*) in the first proviso, for the words ''Provided that'', the words ''Provided further that'' shall be substituted;

(*iv*) in the second proviso, for the words ''Provided further that'', the words ''Provided also that'' shall be substituted;

(*B*) after sub-section (*3*), the following sub-sections shall be inserted, namely:—

''(*4*) A woman who legally adopts a child below the age of three months or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be.

(*5*) In case where the nature of work assigned to a woman is of such nature that she may work from home, the employer may allow her to do so after availing of the maternity benefit for such period and on such conditions as the employer and the woman may mutually agree.''.

Insertion of new section 11A.

4. In the principal Act, after section 11, the following section shall be inserted, namely:—

Créche facility.

''11A. (*1*) Every establishment having fifty or more employees shall have the facility of créche within such distance as may be prescribed, either separately or along with common facilities :

Provided that the employer shall allow four visits a day to the creche by the woman, which shall also include the interval for rest allowed to her.

(*2*) Every establishment shall intimate in writing and electronically to every woman at the time of her initial appointment regarding every benefit available under the Act.''.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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No. 7] NEW DELHI, FRIDAY, MARCH 31, 2017/CHAITRA 10, 1939 (SAKA)

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 31*st March,* 2017/*Chaitra* 10, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 31st March, 2017, and is hereby published for general information:—

THE FINANCE ACT, 2017

NO. 7 OF 2017

[31*st March*, 2017.]

An Act to give effect to the financial proposals of the Central Government for the financial year 2017-2018.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Finance Act, 2017.

(*2*) Save as otherwise provided in this Act, sections 2 to 88 shall come into force on the 1st day of April, 2017.

CHAPTER II

RATES OF INCOME-TAX

Income-tax.

2. (*1*) Subject to the provisions of sub-sections (*2*) and (*3*), for the assessment year commencing on the 1st day of April, 2017, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax shall be increased by a surcharge, for the purposes of the Union, calculated in each case in the manner provided therein.

(*2*) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds two lakh fifty thousand rupees, then,—

(*a*) the net agricultural income shall be taken into account, in the manner provided in clause (*b*) [that is to say, as if the net agricultural income were comprised in the total income after the first two lakh fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(*b*) the income-tax chargeable shall be calculated as follows:—

(*i*) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(*ii*) the net agricultural income shall be increased by a sum of two lakh fifty thousand rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income;

(*iii*) the amount of income-tax determined in accordance with sub-clause (*i*) shall be reduced by the amount of income-tax determined in accordance with sub-clause (*ii*) and the sum so arrived at shall be the income-tax in respect of the total income:

Provided that in the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year, referred to in item (*II*) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words "two lakh fifty thousand rupees", the words "three lakh rupees" had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year, referred to in item (*III*) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words "two lakh fifty thousand rupees", the words "five lakh rupees" had been substituted.

(*3*) In cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or section 115JC or Chapter XII-FA or Chapter XII-FB or sub-section (*1A*) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (*1*) or the rates as specified in that Chapter or section, as the case may be: 43 of 1961.

Provided that the amount of income-tax computed in accordance with the provisions of section 111A or section 112 of the Income-tax Act shall be increased by a surcharge, for the purposes of the Union, as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the First Schedule:

Provided further that in respect of any income chargeable to tax under section 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115BBD, 115BBDA, 115BBF,115E, 115JB or 115JC of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased by a surcharge, for the purposes of the Union, calculated,—

(*a*) in the case of every individual or Hindu undivided family or association of

persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, at the rate of fifteen per cent. of such income-tax, where the total income exceeds one crore rupees;

(*b*) in the case of every co-operative society or firm or local authority, at the rate of twelve per cent. of such income-tax, where the total income exceeds one crore rupees;

(*c*) in the case of every domestic company,—

(*i*) at the rate of seven per cent. of such income-tax, where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(*ii*) at the rate of twelve per cent. of such income-tax, where the total income exceeds ten crore rupees;

(*d*) in the case of every company, other than a domestic company,—

(*i*) at the rate of two per cent. of such income-tax, where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(*ii*) at the rate of five per cent. of such income-tax, where the total income exceeds ten crore rupees:

Provided also that in the case of persons mentioned in (*a*) and (*b*) above, having total income chargeable to tax under section 115JC of the Income-tax Act, and such income exceeds one crore rupees, the total amount payable as income-tax on such income and surcharge thereon shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees but does not exceed ten crore rupees, the total amount payable as income-tax on such income and surcharge thereon, shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds ten crore rupees, the total amount payable as income-tax on such income and surcharge thereon, shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees:

Provided also that in respect of any income chargeable to tax under clause (*i*) of sub-section (*1*) of section 115BBE of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased by a surcharge, for the purposes of the Union, calculated at the rate of twenty-five per cent. of such income-tax.

(*4*) In cases in which tax has to be charged and paid under section 115-O or section 115QA or sub-section (*2*) of section 115R or section 115TA or section 115TD of the Income-tax Act, the tax shall be charged and paid at the rates as specified in those sections and shall be increased by a surcharge, for the purposes of the Union, calculated at the rate of twelve per cent. of such tax.

(*5*) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D, 194LBA, 194LBB, 194LBC and 195 of the Income-tax Act, at the rates in force, the deductions shall be made at the rates specified in Part II of the First Schedule and shall be

increased by a surcharge, for the purposes of the Union, calculated in cases wherever prescribed, in the manner provided therein.

(*6*) In cases in which tax has to be deducted under sections 192A, 194C, 194DA, 194E, 194EE, 194F, 194G, 194H, 194-I, 194-IA, 194-IB, 194-IC, 194J, 194LA, 194LB, 194LBA, 194LBB, 194LBC, 194LC, 194LD, 196B, 196C and 196D of the Income-tax Act, the deductions shall be made at the rates specified in those sections and shall be increased by a surcharge, for the purposes of the Union,—

(*a*) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, being a non-resident, calculated,—

(i) at the rate of ten per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds fifty lakh rupees but does not exceed one crore rupees;

(*ii*) at the rate of fifteen per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(*b*) in the case of every co-operative society or firm, being a non-resident, calculated at the rate of twelve per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(*c*) in the case of every company, other than a domestic company, calculated,—

(*i*) at the rate of two per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed ten crore rupees;

(*ii*) at the rate of five per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten crore rupees.

(*7*) In cases in which tax has to be collected under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in Part II of the First Schedule, and shall be increased by a surcharge, for the purposes of the Union, calculated, in cases wherever prescribed, in the manner provided therein.

(*8*) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section and shall be increased by a surcharge, for the purposes of the Union,—

(*a*) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, being a non-resident, calculated,—

(i) at the rate of ten per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds fifty lakh rupees but does not exceed one crore rupees;

(*ii*) at the rate of fifteen per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees;

(*b*) in the case of every co-operative society or firm, being a non-resident, calculated at the rate of twelve per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees;

(*c*) in the case of every company, other than a domestic company, calculated,—

(*i*) at the rate of two per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees but does not exceed ten crore rupees;

(*ii*) at the rate of five per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds ten crore rupees.

(*9*) Subject to the provisions of sub-section (*10*), in cases in which income-tax has to be charged under sub-section (*4*) of section 172 or sub-section (*2*) of section 174 or section 174A or section 175 or sub-section (*2*) of section 176 of the Income-tax Act or deducted from, or paid on, income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax shall be increased by a surcharge, for the purposes of the Union, calculated in such cases and in such manner as provided therein:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or section 115JC or Chapter XII-FA or Chapter XII-FB or sub-section (*1A*) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

Provided further that the amount of "advance tax" computed in accordance with the provisions of section 111A or section 112 of the Income-tax Act shall be increased by a surcharge, for the purposes of the Union, as provided in Paragraph A, B, C, D or E, as the case may be, of Part III of the First Schedule:

Provided also that in respect of any income chargeable to tax under section 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BA, 115BB, 115BBA, 115BBC, 115BBD, 115BBDA, 115BBF, 115BBG, 115E, 115JB or 115JC of the Income-tax Act, "advance tax" computed under the first proviso shall be increased by a surcharge, for the purposes of the Union, calculated,—

(*a*) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act,—

(*i*) at the rate of ten per cent. of such "advance tax", where the total income exceeds fifty lakh rupees but does not exceed one crore rupees;

(*ii*) at the rate of fifteen per cent. of such "advance tax", where the total income exceeds one crore rupees;

(*b*) in the case of every co-operative society or firm or local authority at the rate of twelve per cent. of such "advance tax", where the total income exceeds one crore rupees;

(*c*) in the case of every domestic company,—

(*i*) at the rate of seven per cent. of such "advance tax", where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(*ii*) at the rate of twelve per cent. of such "advance tax", where the total income exceeds ten crore rupees;

(*d*) in the case of every company, other than a domestic company,—

(*i*) at the rate of two per cent. of such "advance tax", where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(*ii*) at the rate of five per cent. of such "advance tax", where the total income exceeds ten crore rupees:

Provided also that in the case of persons mentioned in (a) above, having total income chargeable to tax under section 115JC of the Income-tax Act, and such income exceeds,—

(*a*) fifty lakh rupees but does not exceed one crore rupees, the total amount payable as "advance tax" on such income and surcharge thereon shall not exceed the total amount payable as "advance tax" on a total income of fifty lakh rupees by more than the amount of income that exceeds fifty lakh rupees;

(*b*) one crore rupees, the total amount payable as "advance tax" on such income and surcharge thereon shall not exceed the total amount payable as "advance tax" on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in the case of persons mentioned in (*b*) above, having total income chargeable to tax under section 115JC of the Income-tax Act, and such income exceeds one crore rupees, the total amount payable as "advance tax" on such income and surcharge thereon shall not exceed the total amount payable as "advance tax" on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees but does not exceed ten crore rupees, the total amount payable as "advance tax" on such income and surcharge thereon, shall not exceed the total amount payable as "advance tax" on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds ten crore rupees, the total amount payable as "advance tax" on such income and surcharge thereon, shall not exceed the total amount payable as "advance tax" and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees:

Provided also that in respect of any income chargeable to tax under clause (*i*) of sub-section (*1*) of section 115BBE of the Income-tax Act, the "advance tax" computed under the first proviso shall be increased by a surcharge, for the purposes of the Union, calculated at the rate of twenty-five per cent. of such "advance tax".

(*10*) In cases to which Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding five thousand rupees, in addition to total income and the total income exceeds two lakh fifty thousand rupees, then, in charging income-tax under sub-section (*2*) of section 174 or section 174A or section 175 or sub-section (*2*) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(*a*) the net agricultural income shall be taken into account, in the manner provided in clause (*b*) [that is to say, as if the net agricultural income were comprised in the total income after the first two lakh fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(*b*) such income-tax or, as the case may be, "advance tax" shall be so charged or computed as follows:—

(*i*) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(*ii*) the net agricultural income shall be increased by a sum of two lakh fifty thousand rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income were the total income;

(*iii*) the amount of income-tax or "advance tax" determined in accordance with sub-clause (*i*) shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (*ii*) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income:

Provided that in the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year, referred to in item (*II*) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "two lakh fifty thousand rupees", the words "three lakh rupees" had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year, referred to in item (*III*) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "two lakh fifty thousand rupees", the words "five lakh rupees" had been substituted:

Provided also that the amount of income-tax or "advance tax" so arrived at, shall be increased by a surcharge for the purposes of the Union, calculated in each case, in the manner provided therein.

(*11*) The amount of income-tax as specified in sub-sections (*1*) to (*10*) and as increased by the applicable surcharge, for the purposes of the Union, calculated in the manner provided therein, shall be further increased by an additional surcharge, for the purposes of the Union, to be called the "Education Cess on income-tax", calculated at the rate of two per cent. of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance universalised quality basic education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is to be deducted or collected under the sections of the Income-tax Act mentioned in sub-sections (*5*), (*6*), (*7*) and (*8*), if the income subjected to deduction of tax at source or collection of tax at source is paid to a domestic company and any other person who is resident in India.

(*12*) The amount of income-tax as specified in sub-sections (*1*) to (*10*) and as increased by the applicable surcharge, for the purposes of the Union, calculated in the manner provided therein, shall also be increased by an additional surcharge, for the purposes of the Union, to be called the "Secondary and Higher Education Cess on income-tax", calculated at the rate of one per cent. of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance secondary and higher education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is to be deducted or collected under the sections of the Income-tax Act mentioned in sub-sections (*5*), (*6*), (*7*) and (*8*), if the income subjected to deduction of tax at source or collection of tax at source is paid to a domestic company and any other person who is resident in India.

(*13*) For the purposes of this section and the First Schedule,—

(*a*) "domestic company" means an Indian company or any other company which, in respect of its income liable to income-tax under the Income-tax Act, for the assessment year commencing on the 1st day of April, 2017, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;

(*b*) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(*c*) "net agricultural income" in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(*d*) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act.

CHAPTER III

DIRECT TAXES

Income-tax

Amendment of section 2.

3. In section 2 of the Income-tax Act,—

(*I*) in clause (*24*), after sub-clause (*xvii*), the following sub-clause shall be inserted, namely: —

"(*xviia*) any sum of money or value of property referred to in clause (*x*) of sub-section (*2*) of section 56;";

(*II*) in clause (*42A*), —

(*a*) in the third proviso [as inserted by section 3 of the Finance Act, 2016], after the words and brackets "a company (not being a share listed in a recognised stock exchange in India)", the words "or an immovable property, being land or building or both," shall be inserted with effect from the 1st day of April, 2018; 28 of 2016.

(*b*) in *Explanation* 1, in clause (*i*),—

(*A*) after sub-clause (*he*), the following sub-clause shall be inserted with effect from the 1st day of April, 2018, namely:—

"(*hf*) in the case of a capital asset, being equity shares in a company, which becomes the property of the assessee in consideration of a transfer referred to in clause (*xb*) of section 47, there shall be included the period for which the preference shares were held by the assessee;";

(*B*) after sub-clause (*hf*) as so inserted, the following sub-clause shall be inserted, namely:—

"(*hg*) in the case of a capital asset, being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in clause (*xix*) of section 47, there shall be included the period for which the unit or units in the consolidating plan of a mutual fund scheme were held by the assessee;".

Amendment of section 9.

4. In section 9 of the Income-tax Act, in sub-section (*1*), in clause (*i*), in *Explanation* 5,—

(*i*) the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2012, namely:—

"Provided that nothing contained in this *Explanation* shall apply to an asset or capital asset, which is held by a non-resident by way of investment, directly or indirectly, in a Foreign Institutional Investor as referred to in clause (a) of the *Explanation* to section 115AD for an assessment year commencing on or after the 1st day of April, 2012 but before the 1st day of April, 2015:";

(*ii*) after the first proviso as so inserted, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2015,

namely: —

"Provided further that nothing contained in this *Explanation* shall apply to an asset or capital asset, which is held by a non-resident by way of investment, directly or indirectly, in Category-I or Category-II foreign portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014, made under the Securities and Exchange Board of India Act, 1992.".

15 of 1992.

Amendment of section 9A.

5. In section 9A of the Income-tax Act, in sub-section (*3*), in clause (*j*), after the proviso, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2016, namely:—

"Provided further that nothing contained in this clause shall apply to a fund which has been wound up in the previous year;".

Amendment of section 10.

6. In section 10 of the Income-tax Act,—

(*a*) in clause (*4*), in sub-clause (*ii*), in the proviso, for the word, brackets and letter "clause (*q*)", the word, brackets and letter "clause (*w*)" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2013;

28 of 2016.

(*b*) after clause (*12A*) [as inserted by section 7 of the Finance Act, 2016], the following clause shall be inserted with effect from the 1st day of April, 2018, namely:—

"(*12B*) any payment from the National Pension System Trust to an employee under the pension scheme referred to in section 80CCD, on partial withdrawal made out of his account in accordance with the terms and conditions, specified under the Pension Fund Regulatory and Development Authority Act, 2013 and the regulations made thereunder, to the extent it does not exceed twenty-five per cent. of the amount of contributions made by him;";

23 of 2013.

(*c*) in clause (*23C*),—

(*I*) after sub-clause (*iiiaaa*), the following sub-clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1998, namely:—

"(*iiiaaaa*) the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund in respect of any State or Union territory as referred to in sub-clause (*iiihf*) of clause (*a*) of sub-section (*2*) of section 80G; or";

(*II*) after the eleventh proviso, the following proviso shall be inserted with effect from the 1st day of April, 2018, namely:—

"Provided also that any amount credited or paid out of income of any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*), to any trust or institution registered under section 12AA, being voluntary contribution made with a specific direction that they shall form part of the corpus of the trust or institution, shall not be treated as application of income to the objects for which such fund or trust or institution or university or educational institution or hospital or other medical institution, as the case may be, is established:";

(*d*) after clause (*37*), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2015, namely:—

'(*37A*) any income chargeable under the head "Capital gains" in respect of transfer of a specified capital asset arising to an assessee, being an individual or

a Hindu undivided family, who was the owner of such specified capital asset as on the 2nd day of June, 2014 and transfers that specified capital asset under the Land Pooling Scheme (herein referred to as "the scheme") covered under the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015 made under the provisions of the Andhra Pradesh Capital Region Development Authority Act, 2014 and the rules, regulations and Schemes made under the said Act.

Andhra Pradesh Act 11 of 2014.

Explanation.—For the purposes of this clause, "specified capital asset" means,—

(*a*) the land or building or both owned by the assessee as on the 2nd day of June, 2014 and which has been transferred under the scheme; or

(*b*) the land pooling ownership certificate issued under the scheme to the assessee in respect of land or building or both referred to in clause (*a*); or

(*c*) the reconstituted plot or land, as the case may be, received by the assessee *in lieu* of land or building or both referred to in clause (*a*) in accordance with the scheme, if such plot or land, as the case may be, so received is transferred within two years from the end of the financial year in which the possession of such plot or land was handed over to him;';

(*e*) in clause (*38*), after the second proviso and before the *Explanation* [as inserted by section 7 of the Finance Act, 2016], the following proviso shall be inserted with effect from the 1st day of April, 2018, namely:—

28 of 2016.

"Provided also that nothing contained in this clause shall apply to any income arising from the transfer of a long-term capital asset, being an equity share in a company, if the transaction of acquisition, other than the acquisition notified by the Central Government in this behalf, of such equity share is entered into on or after the 1st day of October, 2004 and such transaction is not chargeable to securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004.";

23 of 2004.

(*f*) after clause (*48A*), the following clause shall be inserted with effect from the 1st day of April, 2018, namely:—

"(*48B*) any income accruing or arising to a foreign company on account of sale of leftover stock of crude oil, if any, from the facility in India after the expiry of the agreement or the arrangement referred to in clause (*48A*) subject to such conditions as may be notified by the Central Government in this behalf;".

Amendment of section 10AA.

7. In section 10AA of the Income-tax Act, after sub-section (*1*), the following *Explanation* shall be inserted with effect from the 1st day of April, 2018, namely:—

"*Explanation*.—For the removal of doubts, it is hereby declared that the amount of deduction under this section shall be allowed from the total income of the assessee computed in accordance with the provisions of this Act, before giving effect to the provisions of this section and the deduction under this section shall not exceed such total income of the assessee.".

Amendment of section 11.

8. In section 11 of the Income-tax Act, in sub-section (*1*), the *Explanation* below clause (*d*) shall be numbered as *Explanation* 1 thereof and after *Explanation* 1 as so numbered, the following *Explanation* shall be inserted with effect from the 1st day of April, 2018, namely:—

"*Explanation* 2.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) read with *Explanation* 1, to any other trust or institution

registered under section 12AA, being contribution with a specific direction that they shall form part of the corpus of the trust or institution, shall not be treated as application of income for charitable or religious purposes.".

Amendment of section 12A.

9. In section 12A of the Income-tax Act, in sub-section (*1*), with effect from the 1st day of April, 2018,—

(*i*) after clause (*aa*), the following clause shall be inserted, namely:—

"(*ab*) the person in receipt of the income has made an application for registration of the trust or institution, in a case where a trust or an institution has been granted registration under section 12AA or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996], and, subsequently, it has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, in the prescribed form and manner, within a period of thirty days from the date of said adoption or modification, to the Principal Commissioner or Commissioner and such trust or institution is registered under section 12AA;";

33 of 1996.

(*ii*) after clause (*b*), the following clause shall be inserted, namely:—

"(*ba*) the person in receipt of the income has furnished the return of income for the previous year in accordance with the provisions of sub-section (*4A*) of section 139, within the time allowed under that section.".

Amendment of section 12AA.

10. In section 12AA of the Income-tax Act, with effect from the 1st day of April, 2018,—

(*a*) in sub-section (*1*), after the word, brackets and letters "clause (*aa*)", the words, brackets and letters "or clause (*ab*)" shall be inserted;

(*b*) in sub-section (*2*), after the word, brackets and letters "clause (*aa*)", the words, brackets and letters "or clause (*ab*)" shall be inserted.

Amendment of section 13A.

11. In section 13A of the Income-tax Act, with effect from the 1st day of April, 2018,—

(*I*) in the first proviso,—

(*i*) in clause (*b*),—

(*A*) after the words "such voluntary contribution", the words "other than contribution by way of electoral bond" shall be inserted;

(*B*) the word "and" occurring at the end shall be omitted;

(*ii*) in clause (*c*), the word "; and" shall be inserted at the end;

(*iii*) after clause (*c*), the following clause shall be inserted, namely:—

'(*d*) no donation exceeding two thousand rupees is received by such political party otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through electoral bond.

Explanation.—For the purposes of this proviso, "electoral bond" means a bond referred to in the *Explanation* to sub-section (*3*) of section 31 of the Reserve Bank of India Act, 1934.';

2 of 1934.

(*II*) after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that such political party furnishes a return of income for the previous year in accordance with the provisions of sub-section (*4B*) of section 139 on or before the due date under that section.".

Amendment of section 23.

12. In section 23 of the Income-tax Act, after sub-section (*4*), the following sub-section shall be inserted with effect from the 1st day of April, 2018, namely:—

"(*5*) Where the property consisting of any building or land appurtenant thereto is held as stock-in-trade and the property or any part of the property is not let during the whole or any part of the previous year, the annual value of such property or part of the property, for the period up to one year from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority, shall be taken to be *nil*.".

Amendment of section 35AD.

13. In section 35AD of the Income-tax Act, in sub-section (*8*), in clause (*f*), after the words "shall not include", the words "any expenditure in respect of which the payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account, exceeds ten thousand rupees or" shall be inserted with effect from the 1st day of April, 2018.

Amendment of section 36.

14. In section 36 of the Income-tax Act, in sub-section (*1*), in clause (*viia*), in sub-clause (*a*), for the words "seven and one-half per cent.", the words "eight and one-half per cent." shall be substituted with effect from the 1st day of April, 2018.

Amendment of section 40A.

15. In section 40A of the Income-tax Act,—

(*a*) in sub-section (*2*), in clause (*a*), in the proviso, after the words "Provided that", the words, figures and letters "for an assessment year commencing on or before the 1st day of April, 2016" shall be inserted;

(*b*) with effect from the 1st day of April, 2018,—

(*A*) in sub-section (*3*), for the words "exceeds twenty thousand rupees", the words "or use of electronic clearing system through a bank account, exceeds ten thousand rupees," shall be substituted;

(*B*) in sub-section (*3A*),—

(*i*) after the words "account payee bank draft,", the words "or use of electronic clearing system through a bank account" shall be inserted;

(*ii*) for the words "twenty thousand rupees", the words "ten thousand rupees" shall be substituted;

(*iii*) in the first proviso, for the words "exceeds twenty thousand rupees", the words "or use of electronic clearing system through a bank account, exceeds ten thousand rupees," shall be substituted;

(*iv*) in the second proviso, for the words "twenty thousand rupees", the words "ten thousand rupees" shall be substituted;

(*C*) in sub-section (*4*),—

(*i*) after the words "account payee bank draft", the words "or use of electronic clearing system through a bank account" shall be inserted;

(*ii*) after the words "such cheque or draft", the words "or electronic clearing system" shall be inserted.

Amendment of section 43.

16. In section 43 of the Income-tax Act, in clause (*1*), with effect from the 1st day of April, 2018,—

(*a*) after the proviso and before *Explanation* 1, the following proviso shall be inserted, namely:—

"Provided further that where the assessee incurs any expenditure for acquisition of any asset or part thereof in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account

payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account, exceeds ten thousand rupees, such expenditure shall be ignored for the purposes of determination of actual cost.";

(*b*) in *Explanation* 13, the following proviso shall be inserted, namely:—

"Provided that where any capital asset in respect of which deduction or part of deduction allowed under section 35AD is deemed to be the income of the assessee in accordance with the provisions of sub-section (*7B*) of the said section, the actual cost of the asset to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used for the purpose of business since the date of its acquisition.".

Amendment of section 43B.

17. In section 43B of the Income-tax Act, with effect from the 1st day of April, 2018,—

(*i*) in clause (*e*), after the words "scheduled bank", the words "or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank" shall be inserted;

(*ii*) in *Explanation* 4, after clause (*c*), the following clause shall be inserted, namely:—

'(*d*) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the *Explanation* to sub-section (*4*) of section 80P.'.

Amendment of section 43D.

18. In section 43D of the Income-tax Act, with effect from the 1st day of April, 2018,—

(*i*) in clause (*a*), after the words "scheduled bank or", the words "a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank or" shall be inserted;

(*ii*) in the long line, after the words "scheduled bank or", the words "a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank or" shall be inserted;

(*iii*) in the *Explanation*, after clause (*f*), the following clause shall be inserted, namely:—

'(*g*) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the *Explanation* to sub-section (*4*) of section 80P.'.

Amendment of section 44AA.

19. In section 44AA of the Income-tax Act, in sub-section (*2*), the following provisos shall be inserted with effect from the 1st day of April, 2018, namely:—

'Provided that in the case of a person being an individual or a Hindu undivided family, the provisions of clause (*i*) and clause (*ii*) shall have effect, as if for the words "one lakh twenty thousand rupees", the words "two lakh fifty thousand rupees" had been substituted:

Provided further that in the case of a person being an individual or a Hindu undivided family, the provisions of clause (*i*) and clause (*ii*) shall have effect, as if for the words "ten lakh rupees", the words "twenty-five lakh rupees" had been substituted.'.

Amendment of section 44AB.

20. In section 44AB of the Income-tax Act,—

(*i*) before the first proviso, the following proviso shall be inserted, namely:—

"Provided that this section shall not apply to the person, who declares profits and gains for the previous year in accordance with the provisions of sub-section (*1*) of section 44AD and his total sales, turnover or gross receipts, as the case may be, in business does not exceed two crore rupees in such previous year:";

(*ii*) in the first proviso, for the words "Provided that", the words "Provided further that" shall be substituted;

(*iii*) in the second proviso, for the words "Provided further", the words "Provided also" shall be substituted.

Amendment of section 44AD.

21. In section 44AD of the Income-tax Act, in sub-section (*1*), the following proviso shall be inserted, namely:—

'Provided that this sub-section shall have effect as if for the words "eight per cent.", the words "six per cent." had been substituted, in respect of the amount of total turnover or gross receipts which is received by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account during the previous year or before the due date specified in sub-section (*1*) of section 139 in respect of that previous year.'.

Amendment of section 45.

22. In section 45 of the Income-tax Act, after sub-section (*5*) and the *Explanation* thereto, the following sub-section shall be inserted with effect from the 1st day of April, 2018, namely:—

'(*5A*) Notwithstanding anything contained in sub-section (*1*), where the capital gain arises to an assessee, being an individual or a Hindu undivided family, from the transfer of a capital asset, being land or building or both, under a specified agreement, the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority; and for the purposes of section 48, the stamp duty value, on the date of issue of the said certificate, of his share, being land or building or both in the project, as increased by the consideration received in cash, if any, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset:

Provided that the provisions of this sub-section shall not apply where the assessee transfers his share in the project on or before the date of issue of the said certificate of completion, and the capital gains shall be deemed to be the income of the previous year in which such transfer takes place and the provisions of this Act, other than the provisions of this sub-section, shall apply for the purpose of determination of full value of consideration received or accruing as a result of such transfer.

Explanation.—For the purposes of this sub-section, the expression—

(*i*) "competent authority" means the authority empowered to approve the building plan by or under any law for the time being in force;

(*ii*) "specified agreement" means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash;

(*iii*) "stamp duty value" means the value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of an immovable property being land or building or both.'.

Amendment of section 47.

23. In section 47 of the Income-tax Act, with effect from the 1st day of April, 2018,—

(*a*) after clause (*viia*), the following clause shall be inserted, namely:—

"(*viiaa*) any transfer, made outside India, of a capital asset being rupee denominated bond of an Indian company issued outside India, by a non-resident to another non-resident;";

(*b*) after clause (*xa*), the following clause shall be inserted, namely:—

"(*xb*) any transfer by way of conversion of preference shares of a company into equity shares of that company;".

Amendment of section 48.

24. In section 48 of the Income-tax Act, with effect from the 1st day of April, 2018,—

(*a*) in the fifth proviso, for the word "subscribed", the word "held" shall be substituted;

(*b*) in the *Explanation*, in clause (*iii*), for the figures, letters and words "1st day of April, 1981", the figures, letters and words "1st day of April, 2001" shall be substituted.

Amendment of section 49.

25. In section 49 of the Income-tax Act,—

(*a*) in sub-section (*1*), in clause (*iii*), in sub-clause (*e*), after the word, brackets, figures and letter "clause (*vib*)", the words, brackets, figures and letter "or clause (*vic*)" shall be inserted with effect from the 1st day of April, 2018;

(*b*) after sub-section (*2AD*), the following sub-section shall be inserted with effect from the 1st day of April, 2018, namely:—

"(*2AE*) Where the capital asset, being equity share of a company, became the property of the assessee in consideration of a transfer referred to in clause (*xb*) of section 47, the cost of acquisition of the asset shall be deemed to be that part of the cost of the preference share in relation to which such asset is acquired by the assessee.";

(*c*) after sub-section (*2AE*) as so inserted, the following sub-section shall be inserted, namely:—

"(*2AF*) Where the capital asset, being a unit or units in a consolidated plan of a mutual fund scheme, became the property of the assessee in consideration of a transfer referred to in clause (*xix*) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the unit or units in the consolidating plan of the scheme of the mutual fund.";

(*d*) in sub-section (*4*), after the words, brackets, figures and letter "or clause (*viia*)" at both the places where they occur, the words, brackets and figure "or clause (*x*)" shall be inserted;

28 of 2016.

(*e*) after sub-section (*5*) [as inserted by section 30 of the Finance Act, 2016], the following sub-sections shall be inserted with effect from the 1st day of April, 2018, namely:—

'(*6*) Where the capital gain arises from the transfer of a specified capital asset referred to in clause (*c*) of the *Explanation* to clause (*37A*) of section 10, which has been transferred after the expiry of two years from the end of the financial year in which the possession of such asset was handed over to the assessee, the cost of acquisition of such specified capital asset shall be deemed to be its stamp duty value as on the last day of the second financial year after the end of the financial year in which the possession of the said specified capital asset was handed over to the assessee.

Explanation.—For the purposes of this sub-section, "stamp duty value" means the value adopted or assessed or assessable by any authority of the State Government for the purpose of payment of stamp duty in respect of an immovable property.

(*7*) Where the capital gain arises from the transfer of a capital asset, being share in the project, in the form of land or building or both, referred to in sub-section (*5A*) of section 45, not being the capital asset referred to in the proviso to the said sub-section, the cost of acquisition of such asset, shall be the amount which is deemed as full value of consideration in that sub-section.';

(*f*) after sub-section (*7*) as so inserted, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2016, namely:—

"(*8*) Where the capital gain arises from the transfer of an asset, being the asset held by a trust or an institution in respect of which accreted income has been computed and the tax has been paid thereon in accordance with the provisions of Chapter XII-EB, the cost of acquisition of such asset shall be deemed to be the fair market value of the asset which has been taken into account for computation of accreted income as on the specified date referred to in sub-section (*2*) of section 115TD.".

Insertion of new section 50CA.

26. After section 50C of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2018, namely:—

Special provision for full value of consideration for transfer of share other than quoted share.

'50CA. Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being share of a company other than a quoted share, is less than the fair market value of such share determined in such manner as may be prescribed, the value so determined shall, for the purposes of section 48, be deemed to be the full value of consideration received or accruing as a result of such transfer.

Explanation.—For the purposes of this section, "quoted share" means the share quoted on any recognised stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business.'.

Amendment of section 54EC.

27. In section 54EC of the Income-tax Act, in sub-section (*3*), in the *Explanation*, in clause (*ba*), for the words and figures "the Companies Act, 1956" occurring at the end, the words and figures "the Companies Act, 1956; or any other bond notified by the Central Government in this behalf" shall be substituted with effect from the 1st day of April, 2018. 1 of 1956.

Amendment of section 55.

28. In section 55 of the Income-tax Act, with effect from the 1st day of April, 2018,—

(*A*) in sub-section (*1*), in clause (*b*), in sub-clause (*2*), in item (*i*), for the figures, letters and words "1st day of April, 1981", the figures, letters and words "1st day of April, 2001" shall be substituted;

(*B*) in sub-section (*2*), in clause (*b*), for the figures, letters and words "1st day of April, 1981" wherever they occur, the figures, letters and words "1st day of April, 2001" shall be substituted.

Amendment of section 56.

29. In section 56 of the Income-tax Act, in sub-section (*2*),—

(*I*) in clause (*vii*), after the figures, letters and words "1st day of October, 2009", the words, figures and letters "but before the 1st day of April, 2017" shall be inserted;

(*II*) in clause (*viia*), after the figures, letters and words "1st day of June, 2010", the words, figures and letters "but before the 1st day of April, 2017" shall be inserted;

(*III*) after clause (*ix*), the following clause shall be inserted, namely:—

'(*x*) where any person receives, in any previous year, from any person or persons on or after the 1st day of April, 2017,—

(*a*) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;

(*b*) any immovable property,—

(*A*) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

(*B*) for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration:

Provided that where the date of agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of agreement may be taken for the purposes of this sub-clause:

Provided further that the provisions of the first proviso shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account, on or before the date of agreement for transfer of such immovable property:

Provided also that where the stamp duty value of immovable property is disputed by the assessee on grounds mentioned in sub-section (*2*) of section 50C, the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of section 50C and sub-section (*15*) of section 155 shall, as far as may be, apply in relation to the stamp duty value of such property for the purpose of this sub-clause as they apply for valuation of capital asset under those sections;

(*c*) any property, other than immovable property,—

(*A*) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(*B*) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration:

Provided that this clause shall not apply to any sum of money or any property received—

(*I*) from any relative; or

(*II*) on the occasion of the marriage of the individual; or

(*III*) under a will or by way of inheritance; or

(*IV*) in contemplation of death of the payer or donor, as the case may be; or

(*V*) from any local authority as defined in the *Explanation* to clause (*20*) of section 10; or

(*VI*) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (*23C*) of section 10; or

(*VII*) from or by any trust or institution registered under section 12A or section 12AA; or

(*VIII*) by any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10; or

(*IX*) by way of transaction not regarded as transfer under clause (*i*) or clause (*vi*) or clause (*via*) or clause (*viaa*) or clause (*vib*) or clause (*vic*) or clause (*vica*) or clause (*vicb*) or clause (*vid*) or clause (*vii*) of section 47; or

(*X*) from an individual by a trust created or established solely for the benefit of relative of the individual.

Explanation.—For the purposes of this clause, the expressions "assessable", "fair market value", "jewellery", "property", "relative" and "stamp duty value" shall have the same meanings as respectively assigned to them in the *Explanation* to clause (*vii*).'.

Amendment of section 58.

30. In section 58 of the Income-tax Act, in sub-section (*1A*), for the word, brackets, figures and letter "sub-clause (*iia*)", the words, brackets, figures and letters "sub-clauses (*ia*) and (*iia*)" shall be substituted with effect from the 1st day of April, 2018.

Amendment of section 71.

31. In section 71 of the Income-tax Act, after sub-section (*3*), the following sub-section shall be inserted with effect from the 1st day of April, 2018, namely:—

'(*3A*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), where in respect of any assessment year, the net result of the computation under the head "Income from house property" is a loss and the assessee has income assessable under any other head of income, the assessee shall not be entitled to set off such loss, to the extent the amount of the loss exceeds two lakh rupees, against income under the other head.'.

Substitution of new section for section 79.

32. For section 79 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2018, namely:—

Carry forward and set off of losses in case of certain companies.

"79. Notwithstanding anything contained in this Chapter, where a change in shareholding has taken place in a previous year,—

(*a*) in the case of a company not being a company in which the public are substantially interested and other than a company referred to in clause (*b*), no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, unless on the last day of the previous year, the shares of the company carrying not less than fifty-one per cent. of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent. of the voting power on the last day of the year or years in which the loss was incurred;

(*b*) in the case of a company, not being a company in which the public are substantially interested but being an eligible start-up as referred to in section 80-IAC, the loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, if, all the shareholders of such company who held shares carrying voting power on the last day of the year or years in which the loss was incurred,—

(*i*) continue to hold those shares on the last day of such previous year; and

(*ii*) such loss has been incurred during the period of seven years beginning from the year in which such company is incorporated:

Provided that nothing contained in this section shall apply to a case where a change in the said voting power and shareholding takes place in a previous year consequent upon the death of a shareholder or on account of transfer of shares by way of gift to any relative of the shareholder making such gift:

Provided further that nothing contained in this section shall apply to any change in the shareholding of an Indian company which is a subsidiary of a foreign company as a result of amalgamation or demerger of a foreign company subject to the condition that fifty-one per cent. shareholders of the amalgamating or demerged foreign company continue to be the shareholders of the amalgamated or the resulting foreign company.".

Amendment of section 80CCD.

33. In section 80CCD of the Income-tax Act, in sub-section (*1*), in clause (*b*), for the words "ten per cent.", the words "twenty per cent." shall be substituted with effect from the 1st day of April, 2018.

Amendment of section 80CCG.

34. In section 80CCG of the Income-tax Act, after sub-section (*4*), the following sub-section shall be inserted with effect from the 1st day of April, 2018, namely:—

"(*5*) Notwithstanding anything contained in sub-sections (*1*) to (*4*), no deduction under this section shall be allowed in respect of any assessment year commencing on or after the 1st day of April, 2018:

Provided that an assessee, who has acquired listed equity shares or listed units of an equity oriented fund in accordance with the scheme referred to in sub-section (*1*) and claimed deduction under this section for any assessment year commencing on or before the 1st day of April, 2017, shall be allowed deduction under this section till the assessment year commencing on the 1st day of April, 2019, if he is otherwise eligible to claim the deduction in accordance with the other provisions of this section.".

Amendment of section 80G.

35. In section 80G of the Income-tax Act, in sub-section (*5D*), for the words "ten thousand rupees", the words "two thousand rupees" shall be substituted with effect from the 1st day of April, 2018.

Amendment of section 80-IAC.

36. In section 80-IAC of the Income-tax Act [as inserted by section 42 of the Finance Act, 2016], in sub-section (*2*), for the words "five years", the words "seven years" shall be substituted with effect from the 1st day of April, 2018.

28 of 2016.

Amendment of section 80-IBA.

37. In section 80-IBA of the Income-tax Act [as inserted by section 44 of the Finance Act, 2016], with effect from the 1st day of April, 2018,—

28 of 2016.

(*a*) in sub-section (*2*),—

(*i*) in clause (*b*), for the words "three years", the words "five years" shall be substituted;

(*ii*) in clauses (*c*) and (*f*), for the expression "built-up area" wherever they occur, the words "carpet area" shall be substituted;

(*iii*) the words "or within the distance, measured aerially, of twenty-five kilometres from the municipal limits of these cities" wherever they occur shall be omitted;

(*b*) in sub-section (*6*), for clause (*a*), the following clause shall be substituted, namely:—

'(*a*) "carpet area" shall have the same meaning as assigned to it in clause (*k*) of section 2 of the Real Estate (Regulation and Development) Act, 2016.'.

16 of 2016.

Amendment of section 87A.

38. In section 87A of the Income-tax Act, with effect from the 1st day of April, 2018,—

(*a*) for the words "five hundred thousand rupees", the words "three hundred fifty thousand rupees" shall be substituted;

(*b*) for the words "five thousand rupees" [as substituted by section 46 of the Finance Act, 2016], the words "two thousand five hundred rupees" shall be substituted. 28 of 2016.

Amendment of section 90.

39. In section 90 of the Income-tax Act, after *Explanation* 3, the following *Explanation* shall be inserted with effect from the 1st day of April, 2018, namely:—

"*Explanation* 4.—For the removal of doubts, it is hereby declared that where any term used in an agreement entered into under sub-section (*1*) is defined under the said agreement, the said term shall have the same meaning as assigned to it in the agreement; and where the term is not defined in the said agreement, but defined in the Act, it shall have the same meaning as assigned to it in the Act and explanation, if any, given to it by the Central Government.".

Amendment of section 90A.

40. In section 90A of the Income-tax Act, after *Explanation* 3, the following *Explanation* shall be inserted with effect from the 1st day of April, 2018, namely:—

"*Explanation* 4.—For the removal of doubts, it is hereby declared that where any term used in an agreement entered into under sub-section (*1*) is defined under the said agreement, the said term shall have the same meaning as assigned to it in the agreement; and where the term is not defined in the said agreement, but defined in the Act, it shall have the same meaning as assigned to it in the Act and explanation, if any, given to it by the Central Government.".

Amendment of section 92BA.

41. In section 92BA of the Income-tax Act, clause (*i*) shall be omitted.

Insertion of new section 92CE.

42. After section 92CD of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2018, namely:—

Secondary adjustment in certain cases.

'92CE. (*1*) Where a primary adjustment to transfer price,—

(*i*) has been made *suo motu* by the assessee in his return of income;

(*ii*) made by the Assessing Officer has been accepted by the assessee;

(*iii*) is determined by an advance pricing agreement entered into by the assessee under section 92CC;

(*iv*) is made as per the safe harbour rules framed under section 92CB; or

(*v*) is arising as a result of resolution of an assessment by way of the mutual agreement procedure under an agreement entered into under section 90 or section 90A for avoidance of double taxation,

the assessee shall make a secondary adjustment:

Provided that nothing contained in this section shall apply, if,—

(*i*) the amount of primary adjustment made in any previous year does not exceed one crore rupees; and

(*ii*) the primary adjustment is made in respect of an assessment year commencing on or before the 1st day of April, 2016.

(*2*) Where, as a result of primary adjustment to the transfer price, there is an increase in the total income or reduction in the loss, as the case may be, of the assessee, the excess money which is available with its associated enterprise, if not repatriated to India within the time as may be prescribed, shall be deemed to be an advance made by the assessee to such associated enterprise and the interest on such advance, shall be computed in such manner as may be prescribed.

(*3*) For the purposes of this section,—

(*i*) "associated enterprise" shall have the meaning assigned to it in sub-section (*1*) and sub-section (*2*) of section 92A;

(*ii*) "arm's length price" shall have the meaning assigned to it in clause (*ii*) of section 92F;

(*iii*) "excess money" means the difference between the arm's length price determined in primary adjustment and the price at which the international transaction has actually been undertaken;

(*iv*) "primary adjustment" to a transfer price, means the determination of transfer price in accordance with the arm's length principle resulting in an increase in the total income or reduction in the loss, as the case may be, of the assessee;

(*v*) "secondary adjustment" means an adjustment in the books of account of the assessee and its associated enterprise to reflect that the actual allocation of profits between the assessee and its associated enterprise are consistent with the transfer price determined as a result of primary adjustment, thereby removing the imbalance between cash account and actual profit of the assessee.'.

Insertion of new section 94B.

43. After section 94A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2018, namely:—

Limitation on interest deduction in certain cases.

'94B. (*1*) Notwithstanding anything contained in this Act, where an Indian company, or a permanent establishment of a foreign company in India, being the borrower, incurs any expenditure by way of interest or of similar nature exceeding one crore rupees which is deductible in computing income chargeable under the head "Profits and gains of business or profession" in respect of any debt issued by a non-resident, being an associated enterprise of such borrower, the interest shall not be deductible in computation of income under the said head to the extent that it arises from excess interest, as specified in sub-section (*2*):

Provided that where the debt is issued by a lender which is not associated but an associated enterprise either provides an implicit or explicit guarantee to such lender or deposits a corresponding and matching amount of funds with the lender, such debt shall be deemed to have been issued by an associated enterprise.

(*2*) For the purposes of sub-section (*1*), the excess interest shall mean an amount of total interest paid or payable in excess of thirty per cent. of earnings before interest, taxes, depreciation and amortisation of the borrower in the previous year or interest paid or payable to associated enterprises for that previous year, whichever is less.

(*3*) Nothing contained in sub-section (*1*) shall apply to an Indian company or a permanent establishment of a foreign company which is engaged in the business of banking or insurance.

(*4*) Where for any assessment year, the interest expenditure is not wholly deducted against income under the head "Profits and gains of business or profession", so much of the interest expenditure as has not been so deducted, shall be carried forward to the following assessment year or assessment years, and it shall be allowed as a deduction against the profits and gains, if any, of any business or profession carried on by it and assessable for that assessment year to the extent of maximum allowable interest expenditure in accordance with sub-section (*2*):

Provided that no interest expenditure shall be carried forward under this sub-section for more than eight assessment years immediately succeeding the assessment year for which the excess interest expenditure was first computed.

(*5*) For the purposes of this section, the expressions—

(*i*) "associated enterprise" shall have the meaning assigned to it in sub-section (*1*) and sub-section (*2*) of section 92A;

(*ii*) "debt" means any loan, financial instrument, finance lease, financial derivative, or any arrangement that gives rise to interest, discounts or other finance charges that are deductible in the computation of income chargeable under the head "Profits and gains of business or profession";

(*iii*) "permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.'.

Amendment of section 115BBDA.

44. In section 115BBDA of the Income-tax Act [as inserted by section 52 of the Finance Act, 2016], with effect from the 1st day of April, 2018,— 28 of 2016.

(*i*) in sub-section (*1*), for the words "an assessee, being an individual, a Hindu Undivided Family or a firm", the words "a specified assessee" shall be substituted;

(*ii*) for sub-section (*3*), the following *Explanation* shall be substituted, namely:—

'*Explanation*.—For the purposes of this section,—

(*a*) "dividend" shall have the meaning assigned to it in clause (*22*) of section 2 but shall not include sub-clause (*e*) thereof;

(*b*) "specified assessee" means a person other than,—

(*i*) a domestic company; or

(*ii*) a fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10; or

(*iii*) a trust or institution registered under section 12A or section 12AA.'.

Insertion of new section 115 BBG.

45. After section 115BBF of the Income-tax Act [as inserted by section 54 of the Finance Act, 2016], the following section shall be inserted with effect from the 1st day of April, 2018, namely:— 28 of 2016.

Tax on income from transfer of carbon credits.

'115 BBG. (*1*) Where the total income of an assessee includes any income by way of transfer of carbon credits, the income-tax payable shall be the aggregate of—

(*a*) the amount of income-tax calculated on the income by way of transfer of carbon credits, at the rate of ten per cent.; and

(*b*) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of income referred to in clause (*a*).

(*2*) Notwithstanding anything contained in this Act, no deduction in respect of any expenditure or allowance shall be allowed to the assessee under any provision of this Act in computing his income referred to in clause (*a*) of sub-section (*1*).

Explanation.—For the purposes of this section, "carbon credit" in respect of one unit shall mean reduction of one tonne of carbon dioxide emissions or emissions of its equivalent gases which is validated by the United Nations Framework on Climate Change and which can be traded in market at its prevailing market price.'.

Amendment of section 115JAA.

46. In section 115JAA of the Income-tax Act, with effect from the 1st day of April, 2018,—

(*a*) in sub-section (*2A*), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that where the amount of tax credit in respect of any income-tax paid in any country or specified territory outside India, under section 90 or section 90A or section 91, allowed against the tax payable under the provisions of sub-section (*1*) of section 115JB exceeds the amount of such tax credit admissible against the tax payable by the assessee on its income in accordance with the other provisions of this Act, then, while computing the amount of credit under this sub-section, such excess amount shall be ignored.";

(*b*) in sub-section (*3A*), for the words "tenth assessment year", the words "fifteenth assessment year" shall be substituted.

Amendment of section 115JB.

47. In section 115JB of the Income-tax Act,—

(*i*) in sub-section (*2*),—

(*a*) for the words "profit and loss account" wherever they occur, the words "statement of profit and loss" shall be substituted;

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(*b*) for the words and figures "the Companies Act, 1956" wherever they occur, the words and figures "the Companies Act, 2013" shall be substituted;

(*c*) in clause (*a*), for the words and figures "Part II of Schedule VI", the word and figures "Schedule III" shall be substituted;

(*d*) in clause (*b*), for the words, brackets and figures "proviso to sub-section (*2*) of section 211", the words, brackets and figures "second proviso to sub-section (*1*) of section 129" shall be substituted;

(*e*) in the first proviso, for the word and figures "section 210", the word and figures "section 129" shall be substituted;

(*ii*) after sub-section (*2*), the following sub-sections shall be inserted, namely:—

'(*2A*) For a company whose financial statements are drawn up in compliance to the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015, the book profit as computed in accordance with *Explanation* 1 to sub-section (*2*) shall be further—

(*a*) increased by all amounts credited to other comprehensive income in the statement of profit and loss under the head "Items that will not be re-classified to profit or loss";

(*b*) decreased by all amounts debited to other comprehensive income in the statement of profit and loss under the head "Items that will not be re-classified to profit or loss";

(*c*) increased by amounts or aggregate of the amounts debited to the statement of profit and loss on distribution of non-cash assets to shareholders in a demerger in accordance with Appendix A of the Indian Accounting Standards 10;

(*d*) decreased by all amounts or aggregate of the amounts credited to the statement of profit and loss on distribution of non-cash assets to shareholders in a demerger in accordance with Appendix A of the Indian Accounting Standards 10:

Provided that nothing contained in clause (*a*) or clause (*b*) shall apply to the amount credited or debited to other comprehensive income under the head "Items that will not be re-classified to profit or loss" in respect of—

(*i*) revaluation surplus for assets in accordance with the Indian Accounting Standards 16 and Indian Accounting Standards 38; or

(*ii*) gains or losses from investments in equity instruments designated at fair value through other comprehensive income in accordance with the Indian Accounting Standards 109:

Provided further that the book profit of the previous year in which the asset or investment referred to in the first proviso is retired, disposed, realised or otherwise transferred shall be increased or decreased, as the case may be, by the amount or the aggregate of the amounts referred to in the first proviso for the previous year or any of the preceding previous years and relatable to such asset or investment.

(*2B*) In the case of a resulting company, where the property and the liabilities of the undertaking or undertakings being received by it are recorded at values different from values appearing in the books of account of the demerged company immediately before the demerger, any change in such value shall be ignored for the purpose of computation of book profit of the resulting company under this section.

(*2C*) For a company referred to in sub-section (*2A*), the book profit of the year of convergence and each of the following four previous years, shall be further increased or decreased, as the case may be, by one-fifth of the transition amount:

Provided that the book profit of the previous year in which the asset or investment referred to in sub-clauses (*B*) to (*E*) of clause (*iii*) of the *Explanation* is retired, disposed, realised or otherwise transferred, shall be increased or decreased, as the case may be, by the amount or the aggregate of the amounts referred to in the said sub-clauses relatable to such asset or investment:

Provided further that the book profit of the previous year in which the foreign operation referred to in sub-clause (*F*) of clause (*iii*) of the *Explanation* is disposed or otherwise transferred, shall be increased or decreased, as the case may be, by the amount or the aggregate of the amounts referred to in the said sub-clauses relatable to such foreign operations.

Explanation.—For the purposes of this sub-section, the expression—

(*i*) "year of convergence" means the previous year within which the convergence date falls;

(*ii*) "convergence date" means the first day of the first Indian Accounting Standards reporting period as defined in the Indian Accounting Standards 101;

(*iii*) "transition amount" means the amount or the aggregate of the amounts adjusted in the other equity (excluding capital reserve and securities premium reserve) on the convergence date but not including the following:—

(*A*) amount or aggregate of the amounts adjusted in the other comprehensive income on the convergence date which shall be subsequently re-classified to the profit or loss;

(*B*) revaluation surplus for assets in accordance with the Indian Accounting Standards 16 and Indian Accounting Standards 38 adjusted on the convergence date;

(*C*) gains or losses from investments in equity instruments designated at fair value through other comprehensive income in accordance with the Indian Accounting Standards 109 adjusted on the convergence date;

(*D*) adjustments relating to items of property, plant and equipment and intangible assets recorded at fair value as deemed cost in accordance with paragraphs D5 and D7 of the Indian Accounting Standards 101 on the convergence date;

(*E*) adjustments relating to investments in subsidiaries, joint ventures and associates recorded at fair value as deemed cost in accordance with paragraph D15 of the Indian Accounting Standards 101 on the convergence date; and

(*F*) adjustments relating to cumulative translation differences of a foreign operation in accordance with paragraph D13 of the Indian Accounting Standards 101 on the convergence date.';

(*iii*) in *Explanation* 1,—

(*a*) for the words "net profit", the word "profit" shall be substituted;

(*b*) for the words "profit and loss account" wherever they occur, the words "statement of profit and loss" shall be substituted;

(*c*) in clause (*k*), for the words "profit or loss account", the words "statement of profit and loss" shall be substituted;

(*iv*) in *Explanation* 3,—

(*a*) for the words, brackets and figures "proviso to sub-section (*2*) of section 211 of the Companies Act, 1956", the words, brackets and figures "second proviso to sub-section (*1*) of section 129 of the Companies Act, 2013" shall be substituted;

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(*b*) for the words "profit and loss account", the words "statement of profit and loss" shall be substituted;

(c) for the words and figures "Part II and Part III of Schedule VI to the Companies Act, 1956", the words and figures "Schedule III to the Companies Act, 2013" shall be substituted.

1 of 1956.
18 of 2013.

48. In section 115JD of the Income-tax Act, with effect from the 1st day of April, 2018,— Amendment of section 115JD.

(*a*) in sub-section (*2*), the following proviso shall be inserted, namely:—

"Provided that where the amount of tax credit in respect of any income-tax paid in any country or specified territory outside India under section 90 or section 90A or section 91, allowed against the alternate minimum tax payable, exceeds the amount of the tax credit admissible against the regular income-tax payable by the assessee, then, while computing the amount of credit under this sub-section, such excess amount shall be ignored.";

(*b*) in sub-section (*4*), for the words "tenth assessment year", the words "fifteenth assessment year" shall be substituted.

49. In section 119 of the Income-tax Act, in sub-section (*2*), in clause (*a*), after the figures "271", the figures and letters ",271C, 271CA" shall be inserted. Amendment of section 119.

Amendment of section 132.

50. In section 132 of the Income-tax Act,—

(*i*) in sub-section (*1*), after the fourth proviso, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962, namely:—

"*Explanation*.—For the removal of doubts, it is hereby declared that the reason to believe, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.";

(*ii*) in sub-section (*1A*), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1975, namely:—

"*Explanation*.—For the removal of doubts, it is hereby declared that the reason to suspect, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.";

(*iii*) after sub-section (*9A*), the following sub-sections shall be inserted, namely:—

"(*9B*) Where, during the course of the search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, the authorised officer, for reasons to be recorded in writing, is satisfied that for the purpose of protecting the interest of revenue, it is necessary so to do, he may with the previous approval of the Principal Director General or Director General or the Principal Director or Director, by order in writing, attach provisionally any property belonging to the assessee, and for the said purposes, the provisions of the Second Schedule shall, *mutatis mutandis,* apply.

(*9C*) Every provisional attachment made under sub-section (*9B*) shall cease to have effect after the expiry of a period of six months from the date of the order referred to in sub-section (*9B*).

(*9D*) The authorised officer may, during the course of the search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, make a reference to a Valuation Officer referred to in section 142A, who shall estimate the fair market value of the property in the manner provided under that section and submit a report of the estimate to the said officer within a period of sixty days from the date of receipt of such reference.";

(*iv*) for *Explanation* 1, the following *Explanation* shall be substituted, namely:—

'*Explanation* 1.—For the purposes of sub-sections (*9A*), (*9B*) and (*9D*), with respect to "execution of an authorisation for search", the provisions of sub-section (*2*) of section 153B shall apply.'.

Amendment of section 132A.

51. In section 132A of the Income-tax Act, in sub-section (*1*), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1975, namely:—

"*Explanation*.—For the removal of doubts, it is hereby declared that the reason to believe, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.".

Amendment of section 133.

52. In section 133 of the Income-tax Act,—

(*i*) in the first proviso, for the words "and the Principal Commissioner or Commissioner", the words "or the Principal Commissioner or Commissioner or the Joint Director or Deputy Director or Assistant Director" shall be substituted;

(*ii*) in the second proviso, after the words "Director or Principal Commissioner or Commissioner", the words ", other than the Joint Director or Deputy Director or Assistant Director," shall be inserted.

Amendment of section 133A.

53. In section 133A of the Income-tax Act, in sub-section (*1*),—

(*i*) in the long line, for the portion beginning with "at which a business or profession" and ending with "such business or profession—", the following shall be substituted, namely:—

"at which a business or profession or an activity for charitable purpose is carried on, whether such place be the principal place or not of such business or profession or of such activity for charitable purpose, and require any proprietor, trustee, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession or such activity for charitable purpose—";

(*ii*) in the *Explanation*, after the words "business or profession" wherever they occur, the words "or activity for charitable purpose" shall be inserted.

Amendment of section 133C.

54. In section 133C of the Income-tax Act, after sub-section (*2*) and before the *Explanation*, the following sub-section shall be inserted, namely:—

"(*3*) The Board may make a scheme for centralised issuance of notice and for processing of information or documents and making available the outcome of the processing to the Assessing Officer.".

Amendment of section 139.

55. In section 139 of the Income-tax Act, with effect from the 1st day of April, 2018,—

(*i*) in sub-section (*4C*),—

(*I*) after clause (*c*), the following clause shall be inserted, namely:—

"(*ca*) person referred to in clause (*23AAA*) of section 10;";

(*II*) after clause (*eb*), the following clauses shall be inserted, namely:—

"(*eba*) Investor Protection Fund referred to in clause (*23EC*) or clause (*23ED*) of section 10;

(*ebb*) Core Settlement Guarantee Fund referred to in clause (*23EE*) of section 10;";

(*III*) after clause (*f*), the following clause shall be inserted, namely:—

"(*fa*) Board or Authority referred to in clause (*29A*) of section 10;";

(*IV*) in the long line occurring after clause (*h*), after the words "association or institution,", the words "person or" shall be inserted;

28 of 2016.

(*ii*) in sub-section (*5*) [as substituted by section 67 of the Finance Act, 2016], the words "the expiry of one year from" shall be omitted.

Insertion of new section 139AA.

56. After section 139A of the Income-tax Act, the following section shall be inserted, namely:—

Quoting of Aadhaar number.

'139AA. (*1*) Every person who is eligible to obtain Aadhaar number shall, on or after the 1st day of July, 2017, quote Aadhaar number—

(*i*) in the application form for allotment of permanent account number;

(*ii*) in the return of income:

Provided that where the person does not possess the Aadhaar number, the Enrolment ID of Aadhaar application form issued to him at the time of enrolment shall be quoted in the application for permanent account number or, as the case may be, in the return of income furnished by him.

(*2*) Every person who has been allotted permanent account number as on the 1st day of July, 2017, and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to such authority in such form and manner as may be prescribed, on or before a date to be notified by the Central Government in the Official Gazette:

Provided that in case of failure to intimate the Aadhaar number, the permanent account number allotted to the person shall be deemed to be invalid and the other provisions of this Act shall apply, as if the person had not applied for allotment of permanent account number.

(*3*) The provisions of this section shall not apply to such person or class or classes of persons or any State or part of any State, as may be notified by the Central Government in this behalf, in the Official Gazette.

Explanation.—For the purposes of this section, the expressions—

(*i*) "Aadhaar number", "Enrolment" and "resident" shall have the same meanings respectively assigned to them in clauses (*a*), (*m*) and (*v*) of section 2 of the Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016; 18 of 2016.

(*ii*) "Enrolment ID" means a 28 digit Enrolment Identification Number issued to a resident at the time of enrolment.'.

Amendment of section 140A.

57. In section 140A of the Income-tax Act, with effect from the 1st day of April, 2018,—

(*i*) in sub-section (*1*),—

(*a*) in the long line,—

(*A*) after the words "together with interest", the words "and fee" shall be inserted;

(*B*) for the words "and interest", the words ", interest and fee" shall be substituted;

(*b*) in the *Explanation*, for the words "and interest as aforesaid, the amount so paid shall first be adjusted towards", the words ", interest and fee as aforesaid, the amount so paid shall first be adjusted towards the fee payable and thereafter towards" shall be substituted;

(*ii*) in sub-section (*3*), for the words "or interest or both" at both the places where they occur, the words "interest or fee" shall be substituted.

Amendment of section 143.

58. In section 143 of the Income-tax Act,—

(*a*) in sub-section (*1*), with effect from the 1st day of April, 2018,—

(*i*) in clause (*b*), for the words "and interest", the words ", interest and fee" shall be substituted;

(*ii*) in clause (*c*),—

(*A*) for the words "and interest", the words ", interest and fee" shall be substituted;

(*B*) for the words "or interest", the words ", interest or fee" shall be substituted;

(*iii*) in the first proviso, for the words "or interest", the words ", interest or fee" shall be substituted;

(*b*) for sub-section (*1D*) [as substituted by section 68 of the Finance Act, 2016], the following shall be substituted, namely:— 28 of 2016.

"(*1D*) Notwithstanding anything contained in sub-section (*1*), the processing of a return shall not be necessary, where a notice has been issued to the assessee under sub-section (*2*):

Provided that the provisions of this sub-section shall not apply to any return furnished for the assessment year commencing on or after the 1st day of April, 2017.".

(*c*) in sub-section (*3*), for the portion beginning with the words "On the day specified in the notice" and ending with the words, brackets and letters "issued under clause (*ii*) of ", the words "On the day specified in the notice issued under" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2016.

59. In section 153 of the Income-tax Act,— Amendment of section 153.

(*i*) in sub-section (*1*), the following provisos shall be inserted, namely:—

'Provided that in respect of an order of assessment relating to the assessment year commencing on the 1st day of April, 2018, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "eighteen months" had been substituted:

Provided further that in respect of an order of assessment relating to the assessment year commencing on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "twelve months" had been substituted.';

(*ii*) in sub-section (*2*), the following proviso shall be inserted, namely:—

'Provided that where the notice under section 148 is served on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words "nine months", the words "twelve months" had been substituted.';

(*iii*) in sub-section (*3*), the following proviso shall be inserted, namely:—

'Provided that where the order under section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words "nine months", the words "twelve months" had been substituted.';

(*iv*) in sub-section (*5*), after the proviso, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2016, namely:—

"Provided further that where an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 requires verification of any issue by way of submission of any document by the assessee or any other person or where an opportunity of being heard is to be provided to the assessee, the order giving effect to the said order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 shall be made within the time specified in sub-section (*3*).";

(*v*) in sub-section (*9*), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2016, namely:—

"Provided that where a notice under sub-section (*1*) of section 142 or sub-section (*2*) of section 143 or section 148 has been issued prior to the 1st day of June, 2016 and the assessment or reassessment has not been completed by such date due to exclusion of time referred to in *Explanation* 1, such assessment or reassessment shall be completed in accordance with the provisions of this section as it stood immediately before its substitution by the Finance Act, 2016."; 28 of 2016.

(*vi*) in *Explanation* 1, in the third proviso, the figures and letter "153B," shall be omitted.

Amendment of section 153A.

60. In section 153A of the Income-tax Act, in sub-section (*1*),—

(*i*) in clause (*a*), first proviso and the second proviso, after the words "six assessment years" wherever they occur, the words "and for the relevant assessment year or years" shall be inserted;

(*ii*) in clause (*b*), after the words "requisition is made", the words "and of the relevant assessment year or years" shall be inserted;

(*iii*) in the third proviso, after the words "requisition is made", the words "and for the relevant assessment year or years" shall be inserted;

(*iv*) after the third proviso, the following shall be inserted, namely:—

'Provided also that no notice for assessment or reassessment shall be issued by the Assessing Officer for the relevant assessment year or years unless—

(*a*) the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in the relevant assessment year or in aggregate in the relevant assessment years;

(*b*) the income referred to in clause (*a*) or part thereof has escaped assessment for such year or years; and

(*c*) the search under section 132 is initiated or requisition under section 132A is made on or after the 1st day of April, 2017.

Explanation 1.—For the purposes of this sub-section, the expression "relevant assessment year" shall mean an assessment year preceding the assessment year relevant to the previous year in which search is conducted or requisition is made which falls beyond six assessment years but not later than ten assessment years from the end of the assessment year relevant to the previous year in which search is conducted or requisition is made.

Explanation 2.—For the purposes of the fourth proviso, "asset" shall include immovable property being land or building or both, shares and securities, loans and advances, deposits in bank account.'.

Amendment of section 153B.

61. In section 153B of the Income-tax Act,—

(*a*) in sub-section (*1*),—

(*i*) in clause (*a*), after the words "six assessment years", the words "and for the relevant assessment year or years" shall be inserted;

(*ii*) for the second and third provisos, the following provisos shall be substituted, namely:—

'Provided further that in the case where the last of the authorisations for search under section 132 or for requisition under section 132A was

executed during the financial year commencing on the 1st day of April, 2018,—

(*i*) the provisions of clause (*a*) or clause (*b*) of this sub-section shall have effect, as if for the words "twenty-one months", the words "eighteen months" had been substituted;

(*ii*) the period of limitation for making the assessment or reassessment in case of other person referred to in section 153C, shall be the period of eighteen months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed or twelve months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later:

Provided also that in the case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed during the financial year commencing on or after the 1st day of April, 2019,—

(*i*) the provisions of clause (*a*) or clause (*b*) of this sub-section shall have effect, as if for the words "twenty-one months", the words "twelve months" had been substituted;

(*ii*) the period of limitation for making the assessment or reassessment in case of other person referred to in section 153C, shall be the period of twelve months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed or twelve months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later:

Provided also that in case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed and during the course of the proceedings for the assessment or reassessment of total income, a reference under sub-section (*1*) of section 92CA is made, the period available for making an order of assessment or reassessment shall be extended by twelve months:

Provided also that in case where during the course of the proceedings for the assessment or reassessment of total income in case of other person referred to in section 153C, a reference under sub-section (*1*) of section 92CA is made, the period available for making an order of assessment or reassessment in case of such other person shall be extended by twelve months.';

(*b*) in sub-section (*3*), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2016, namely:—

"Provided that where a notice under section 153A or section 153C has been issued prior to the 1st day of June, 2016 and the assessment has not been completed by such date due to exclusion of time referred to in the *Explanation,* such assessment shall be completed in accordance with the provisions of this section as it stood immediately before its substitution by the Finance Act, 2016.";

28 of 2016.

(*c*) in the *Explanation*, after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation available under this section to the Assessing Officer for making an order of assessment or reassessment, as the case may be, shall, after the exclusion of the period under sub-section (*4*) of section 245HA, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year.".

Amendment of section 153C.

62. In section 153C of the Income-tax Act, in sub-section (*1*),—

(*a*) in the long line, after the words "total income of such other person", the words "for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and" shall be inserted;

(b) in the second proviso, after the words "requisition is made", the words, brackets, figures and letter "and for the relevant assessment year or years as referred to in sub-section (*1*) of section 153A" shall be inserted.

Amendment of section 155.

63. In section 155 of the Income-tax Act, after sub-section (*14*), the following sub-section shall be inserted with effect from the 1st day of April, 2018, namely:—

"(*14A*) Where in the assessment for any previous year or in any intimation or deemed intimation under sub-section (*1*) of section 143 for any previous year, credit for income-tax paid in any country outside India or a specified territory outside India referred to in section 90, section 90A or section 91 has not been given on the ground that the payment of such tax was under dispute, and if subsequently such dispute is settled; and the assessee, within six months from the end of the month in which the dispute is settled, furnishes to the Assessing Officer evidence of settlement of dispute and evidence of payment of such tax along with an undertaking that no credit in respect of such amount has directly or indirectly been claimed or shall be claimed for any other assessment year, the Assessing Officer shall amend the order of assessment or any intimation or deemed intimation under sub-section (*1*) of section 143, as the case may be, and the provisions of section 154 shall, so far as may be, apply thereto:

Provided that the credit of tax which was under dispute shall be allowed for the year in which such income is offered to tax or assessed to tax in India.".

Insertion of new section 194-IB.

64. After section 194-IA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2017, namely:—

Payment of rent by certain individuals or Hindu undivided family.

'194-IB. (*1*) Any person, being an individual or a Hindu undivided family (other than those referred to in the second proviso to section 194-I), responsible for paying to a resident any income by way of rent exceeding fifty thousand rupees for a month or part of a month during the previous year, shall deduct an amount equal to five per cent. of such income as income-tax thereon.

(*2*) The income-tax referred to in sub-section (*1*) shall be deducted on such income at the time of credit of rent, for the last month of the previous year or the last month of tenancy, if the property is vacated during the year, as the case may be, to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

(*3*) The provisions of section 203A shall not apply to a person required to deduct tax in accordance with the provisions of this section.

(*4*) In a case where the tax is required to be deducted as per the provisions of section 206AA, such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy, as the case may be.

Explanation.—For the purposes of this section, "rent" means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any land or building or both.'.

Insertion of new section 194-IC.

65. After section 194-IB of the Income-tax Act as so inserted, the following section shall be inserted, namely:—

Payment under specified agreement.

"194-IC. Notwithstanding anything contained in section 194-IA, any person responsible for paying to a resident any sum by way of consideration, not being consideration in kind, under the agreement referred to in sub-section (*5A*) of section 45, shall at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent. of such sum as income-tax thereon.".

Amendment of section 194J.

66. In section 194J of the Income-tax Act, after the third proviso and before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of June, 2017, namely:—

'Provided also that the provisions of this section shall have effect, as if for the words "ten per cent.", the words "two per cent." had been substituted in the case of a payee, engaged only in the business of operation of call centre.'.

Amendment of section 194LA.

67. In section 194LA of the Income-tax Act, after the proviso and before the *Explanation*, the following proviso shall be inserted, namely:—

"Provided further that no deduction shall be made under this section where such payment is made in respect of any award or agreement which has been exempted from levy of income-tax under section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.".

30 of 2013.

Amendment of section 194LC.

68. In section 194LC of the Income-tax Act, in sub-section (*2*),—

(*a*) in clause (*i*), with effect from the 1st day of April, 2018,—

(*A*) in sub-clauses (*a*) and (*c*), for the figures, letters and words "1st day of July, 2017", the figures, letters and words "1st day of July, 2020" shall be substituted;

(*B*) in the long line, for the word "and", the word "or" shall be substituted;

(*b*) after clause (*i*), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2016, namely:—

"(*ia*) in respect of monies borrowed by it from a source outside India by way of issue of rupee denominated bond before the 1st day of July, 2020, and".

Amendment of section 194LD.

69. In section 194LD of the Income-tax Act, in sub-section (*2*), for the figures, letters and words "1st day of July, 2017", the figures, letters and words "1st day of July, 2020" shall be substituted with effect from the 1st day of April, 2018.

Amendment of section 197A.

70. In section 197A of the Income-tax Act, with effect from the 1st day of June, 2017,—

(*a*) in sub-section (*1A*), after the word, figures and letter "section 194A" at both the places where they occur, the words, figures and letter "or section 194D" shall be inserted;

(*b*) in sub-section (*1C*), after the word, figures and letter "section 194A" at both the places where they occur, the words, figures and letter "or section 194D" shall be inserted.

Amendment of section 204.

71. In section 204 of the Income-tax Act, after clause (*iia*), the following clause shall be inserted, namely:—

"(*iib*) in the case of furnishing of information relating to payment to a non-resident, not being a company, or to a foreign company, of any sum, whether or not chargeable under the provisions of this Act, the payer himself, or, if the payer is a company, the company itself including the principal officer thereof;".

Amendment of section 206C.

72. In section 206C of the Income-tax Act,—

(*a*) sub-section (*1D*) shall be omitted;

(*b*) sub-section (*1E*) shall be omitted;

(*c*) in sub-sections (*2*), (*3*), (*3A*) and sub-section (*9*), the words, brackets, figure and letter "or sub-section (*ID*)" wherever they occur, shall be omitted;

(*d*) in sub-section (*6A*), in the first proviso, the words, brackets, figure and letter ", other than a person referred to in sub-section (*1D*)," shall be omitted;

(*e*) in sub-section (*7*), in the proviso, the words, brackets, figure and letter ", other than a person referred to in sub-section (*ID*)," shall be omitted;

(*f*) in the *Explanation* occurring after sub-section (*11*),—

(*A*) in clause (*aa*),—

(*I*) sub-clasuse (*ii*) shall be omitted;

(*II*) after sub-clause (*ii*), the following sub-clause shall be inserted, namely:—

"(*iii*) sub-section (*1F*) means a person who obtains in any sale, goods of the nature specified in the said sub-section, but does not include,—

(*A*) the Central Government, a State Government and an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or

(*B*) a local authority as defined in *Explanation* to clause (*20*) of section 10; or

(*C*) a public sector company which is engaged in the business of carrying passengers.";

(*B*) clause (*ab*) shall be omitted.

(*C*) in clause (*c*), for the words, brackets, figures and letters "or sub section (*1D*) are sold or services referred to in sub-section (*ID*) are provided", the words "are sold" shall be substituted.

Insertion of new section 206CC.

73. After section 206CB of the Income-tax Act, the following section shall be inserted, namely:—

Requirement to furnish Permanent Account Number by collectee.

'206CC. (*1*) Notwithstanding anything contained in any other provisions of this Act, any person paying any sum or amount, on which tax is collectible at source under Chapter XVII-BB (herein referred to as collectee) shall furnish his Permanent Account Number to the person responsible for collecting such tax (herein referred to as collector), failing which tax shall be collected at the higher of the following rates, namely:—

(*i*) at twice the rate specified in the relevant provision of this Act; or

(*ii*) at the rate of five per cent.

(*2*) No declaration under sub-section (*1A*) of section 206C shall be valid unless the person furnishes his Permanent Account Number in such declaration.

(*3*) In case any declaration becomes invalid under sub-section (*2*), the collector shall collect the tax at source in accordance with the provisions of sub-section (*1*).

(*4*) No certificate under sub-section (*9*) of section 206C shall be granted unless the application made under that section contains the Permanent Account Number of the applicant.

(*5*) The collectee shall furnish his Permanent Account Number to the collector and both shall indicate the same in all the correspondence, bills, vouchers and other documents which are sent to each other.

(*6*) Where the Permanent Account Number provided to the collector is invalid or does not belong to the collectee, it shall be deemed that the collectee has not furnished his Permanent Account Number to the collector and the provisions of sub-section (*1*) shall apply accordingly.

(*7*) The provisions of this section shall not apply to a non-resident who does not have permanent establishment in India.

Explanation.—For the purposes of this sub-section, the expression "permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.'.

Amendment of section 211.

74. In section 211 of the Income-tax Act, in sub-section (*1*), in clause (*b*), for the words, figures and letters "an eligible assessee in respect of an eligible business referred to in section 44AD", the words, brackets, figures and letters "an assessee who declares profits and gains in accordance with the provisions of sub-section (*1*) of section 44AD or sub-section (*1*) of section 44ADA, as the case may be" shall be substituted.

Amendment of section 234C.

75. In section 234C of the Income-tax Act, in sub-section (*1*),—

(*i*) in clause (*a*), for the words, figures and letters "an eligible assessee in respect of the eligible business referred to in section 44AD", the words, brackets and letter "the assessee referred to in clause (*b*)" shall be substituted;

(*ii*) in clause (*b*), for the words, figures and letters "an eligible assessee in respect of the eligible business referred to in section 44AD", the words, brackets, figures and letters "an assessee who declares profits and gains in accordance with the provisions of sub-section (*1*) of section 44AD or sub-section (*1*) of section 44ADA, as the case may be" shall be substituted;

(*iii*) in the first proviso,—

(*A*) in clause (*c*), for the words "first time," occurring at the end, the words "first time; or" shall be substituted;

(*B*) after clause (*c*) and before the long line, the following clause shall be inserted, namely:—

"(*d*) income of the nature referred to in sub-section (*1*) of section 115BBDA,";

(*C*) in the long line, after the words, brackets and letter "or clause (*c*)", the words, brackets and letter "or clause (*d*)" shall be inserted.

Insertion of new section 234F. Fee for default in furnishing return of income.

76. After section 234E of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2018, namely:—

"234F. (*1*) Without prejudice to the provisions of this Act, where a person required to furnish a return of income under section 139, fails to do so within the time prescribed in sub-section (*1*) of the said section, he shall pay, by way of fee, a sum of,—

(*a*) five thousand rupees, if the return is furnished on or before the 31st day of December of the assessment year;

(*b*) ten thousand rupees in any other case:

Provided that if the total income of the person does not exceed five lakh rupees, the fee payable under this section shall not exceed one thousand rupees.

(*2*) The provisions of this section shall apply in respect of return of income required to be furnished for the assessment year commencing on or after the 1st day of April, 2018.".

Insertion of new section 241A.

77. After section 241 of the Income-tax Act [as it stood immediately before its omission by section 81 of the Finance Act, 2001], the following section shall be inserted, namely:— 14 of 2001.

Withholding of refund in certain cases.

"241A. For every assessment year commencing on or after the 1st day of April, 2017, where refund of any amount becomes due to the assessee under the provisions of sub-section (*1*) of section 143 and the Assessing Officer is of the opinion, having regard to the fact that a notice has been issued under sub-section (*2*) of section 143 in respect of such return, that the grant of the refund is likely to adversely affect the revenue, he may, for reasons to be recorded in writing and with the previous approval of the Principal Commissioner or Commissioner, as the case may be, withhold the refund up to the date on which the assessment is made.".

Amendment of section 244A.

78. In section 244A of the Income-tax Act,—

(*i*) after sub-section (*1A*), the following sub-section shall be inserted, namely:—

"(*1B*) Where refund of any amount becomes due to the deductor in respect of any amount paid to the credit of the Central Government under Chapter XVII-B, such deductor shall be entitled to receive, in addition to the said amount, simple interest thereon calculated at the rate of one-half per cent. for every month or part of a month comprised in the period, from the date on which—

(*a*) claim for refund is made in the prescribed form; or

(*b*) tax is paid, where refund arises on account of giving effect to an order under section 250 or section 254 or section 260 or section 262,

to the date on which the refund is granted.";

(*ii*) in sub-section (*2*),—

(*a*) after the words "to the assessee", the words "or the deductor, as the case may be," shall be inserted;

(*b*) after the word, brackets, figure and letter "or (*1A*)", the word, brackets, figure and letter "or (*1B*)" shall be inserted.

Amendment of section 245A.

79. In section 245A of the Income-tax Act, in clause (*b*), in the *Explanation*, in clause (*iv*), for the words "two years from the end of the relevant assessment year", the words, brackets and figures "the time specified for making assessment under sub-section (*1*) of section 153" shall be substituted.

Amendment of section 245N.

80. In section 245N of the Income-tax Act, for clause (*b*), the following clause shall be substituted, namely:—

'(*b*) "applicant" means—

(*A*) any person who—

(*I*) is a non-resident referred to in sub-clause (*i*) of clause (*a*); or

(*II*) is a resident referred to in sub-clause (*ii*) of clause (*a*); or

(*III*) is a resident referred to in sub-clause (*iia*) of clause (*a*) falling within any such class or category of persons as the Central Government may, by notification in the Official Gazette, specify; or

(*IV*) is a resident falling within any such class or category of persons as the Central Government may, by notification in the Official Gazette, specify in this behalf; or

(*V*) is referred to in sub-clause (*iv*) of clause (*a*),

and makes an application under sub-section (*1*) of section 245Q;

(*B*) an applicant as defined in clause (*c*) of section 28E of the Customs Act, 1962; 52 of 1962.

(*C*) an applicant as defined in clause (*c*) of section 23A of the Central Excise Act, 1944; 1 of 1944.

(*D*) an applicant as defined in clause (*b*) of section 96A of the Finance Act, 1994;'. 32 of 1994.

81. In section 245-O of the Income-tax Act,— Amendment of section 245-O.

(*a*) in sub-section (*3*),—

(*i*) in clause (*a*), after the words "a Judge of the Supreme Court", the words "or the Chief Justice of a High Court or for at least seven years a Judge of a High Court" shall be inserted;

(*ii*) for clause (*c*), the following clause shall be substituted, namely:—

"(*c*) a revenue Member—

(*i*) from the Indian Revenue Service, who is, or is qualified to be, a Member of the Board; or

(*ii*) from the Indian Customs and Central Excise Service, who is, or is qualified to be, a Member of the Central Board of Excise and Customs,

on the date of occurrence of vacancy;";

(*iii*) in clause (*d*), after the words "Government of India", the words "on the date of occurrence of vacancy" shall be inserted;

(*b*) after sub-section (*6*), the following sub-sections shall be inserted, namely:—

"(*6A*) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the senior-most Vice-chairman shall act as the Chairman until the date on which a new Chairman, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(*6B*) In case the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Vice-chairman shall discharge the functions of the Chairman until the date on which the Chairman resumes his duties.".

82. In section 245Q of the Income-tax Act, in sub-section (*1*), after the words "advance ruling under this Chapter", the words, figures and letters "or under Chapter V of the Customs Act, 1962 or under Chapter IIIA of the Central Excise Act, 1944 or under Chapter VA of the Finance Act, 1994" shall be inserted. Amendment of section 245Q. 52 of 1962. 1 of 1944. 32 of 1994.

83. In section 253 of the Income-tax Act, in sub-section (*1*), in clause (*f*), after the words "authority under", the words, brackets and figures "sub-clause (*iv*) or sub-clause (*v*) or" shall be inserted. Amendment of section 253.

Insertion of new section 269ST. Mode of undertaking transactions.

84. After section 269SS of the Income-tax Act, the following section shall be inserted, namely:—

'269ST. No person shall receive an amount of two lakh rupees or more—

(*a*) in aggregate from a person in a day; or

(*b*) in respect of a single transaction; or

(*c*) in respect of transactions relating to one event or occasion from a person,

otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account:

Provided that the provisions of this section shall not apply to—

(*i*) any receipt by—

(*a*) Government;

(*b*) any banking company, post office savings bank or co-operative bank;

(*ii*) transactions of the nature referred to in section 269SS;

(*iii*) such other persons or class of persons or receipts, which the Central Government may, by notification in the Official Gazette, specify.

Explanation.—For the purposes of this section,—

(*a*) "banking company" shall have the same meaning as assigned to it in clause (*i*) of the *Explanation* to section 269SS;

(*b*) "co-operative bank" shall have the same meaning as assigned to it in clause (*ii*) of the *Explanation* to section 269SS.'.

Insertion of new section 271DA.

85. After section 271D of the Income-tax Act, the following section shall be inserted, namely:—

Penalty for failiure to comply with provisions of section 269ST.

"271DA. (*1*) If a person receives any sum in contravention of the provisions of section 269ST, he shall be liable to pay, by way of penalty, a sum equal to the amount of such receipt:

Provided that no penalty shall be imposable if such person proves that there were good and sufficient reasons for the contravention.

(*2*) Any penalty imposable under sub-section (*1*) shall be imposed by the Joint Commissioner.".

Amendment of section 271F.

86. In section 271F of the Income-tax Act, the following proviso shall be inserted with effect from the 1st day of April, 2018, namely:—

"Provided that nothing contained in this section shall apply to and in relation to the return of income required to be furnished for any assessment year commencing on or after the 1st day of April, 2018.".

Insertion of new section 271J.

87. After section 271-I of the Income-tax Act, the following section shall be inserted, namely:—

Penalty for furnishing incorrect information in reports or certificates.

'271J. Without prejudice to the provisions of this Act, where the Assessing Officer or the Commissioner (Appeals), in the course of any proceedings under this Act, finds that an accountant or a merchant banker or a registered valuer has furnished incorrect information in any report or certificate furnished under any provision of this Act or the rules made thereunder, the Assessing Officer or the Commissioner (Appeals) may direct that such accountant or merchant banker or registered valuer, as the case may be, shall pay, by way of penalty, a sum of ten thousand rupees for each such report or certificate.

Explanation.—For the purposes of this section,—

(*a*) "accountant" means an accountant referred to in the *Explanation* below sub-section (*2*) of section 288;

(*b*) "merchant banker" means Category I merchant banker registered with the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992; 15 of 1992.

(*c*) "registered valuer" means a person defined in clause (*oaa*) of section 2 of the Wealth-tax Act, 1957.'. 27 of 1957.

88. In section 273B of the Income-tax Act, after the word, figures and letter "section 271-I,", the word, figures and letter "section 271J," shall be inserted. Amendment of section 273B.

CHAPTER IV

INDIRECT TAXES

Customs

52 of 1962. **89**. In the Customs Act, 1962 (hereinafter referred to as the Customs Act), in section 2,— Amendment of section 2.

(*a*) after clause (*3*), the following clause shall be inserted, namely:—

'(*3A*) "beneficial owner" means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;';

(*b*) in clause (*13*), for the words "customs airport", the words "customs airport, international courier terminal, foreign post office" shall be substituted;

(*c*) in clause (*16*), the words and figures "in the case of goods imported or to be exported by post, the entry referred to in section 82 or" shall be omitted;

(*d*) in clause (*20*), for the words "any owner", the words "any owner, beneficial owner" shall be substituted;

(*e*) after clause (*20*), the following clause shall be inserted, namely:—

'(*20A*) "foreign post office" means any post office appointed under clause (*e*) of sub-section (*1*) of section 7 to be a foreign post office;';

(*f*) in clause (*26*), for the words "any owner", the words "any owner, beneficial owner" shall be substituted;

(*g*) after clause (*28*), the following clause shall be inserted, namely:—

'(*28A*) "international courier terminal" means any place appointed under clause (*f*) of sub-section (*1*) of section 7 to be an international courier terminal;';

(*h*) after clause (*30A*), the following clause shall be inserted, namely:—

'(*30B*) "passenger name record information" means the records prepared by an operator of any aircraft or vessel or vehicle or his authorised agent for each journey booked by or on behalf of any passenger;'.

90. In the Customs Act, in section 7, in sub-section (*1*), after clause (*d*), the following clauses shall be inserted, namely:— Amendment of section 7.

"(*e*) the post offices which alone shall be foreign post offices for the clearance of imported goods or export goods or any class of such goods;

(*f*) the places which alone shall be international courier terminals for the clearance of imported goods or export goods or any class of such goods.".

91. In the Customs Act, in section 17, for sub-section (*3*), the following sub-section shall be substituted, namely:— Amendment of section 17.

"(*3*) For verification of self-assessment under sub-section (*2*), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.".

92. In the Customs Act, in section 27, in sub-section (*2*), in the first proviso, after clause (*f*), the following clause shall be inserted, namely:— Amendment of section 27.

"(*g*) the duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made where—

(*i*) such excess payment of duty is evident from the bill of entry in the case of self-assessed bill of entry; or

(*ii*) the duty actually payable is reflected in the reassessed bill of entry in the case of reassessment.".

Amendment of section 28E.

93. In the Customs Act, in section 28E, for clause (*e*), the following clause shall be substituted, namely:—

'(*e*) "Authority" means the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961;'. 43 of 1961.

Substitution of new section for section 28F.

94. In the Customs Act, for section 28F, the following section shall be substituted, namely:—

Authority for Advance Rulings.

"28F. (*1*) Subject to the provisions of this Act, the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961 shall be the Authority for giving advance rulings for the purposes of this Act and the said Authority shall exercise the jurisdiction, powers and authority conferred on it by or under this Act: 43 of 1961.

Provided that the Member from the Indian Revenue Service (Customs and Central Excise), who is qualified to be a Member of the Board, shall be the revenue Member of the Authority for the purposes of this Act.

(*2*) On and from the date on which the Finance Bill, 2017 receives the assent of the President, every application and proceeding pending before the erstwhile Authority for Advance Rulings (Central Excise, Customs and Service Tax) shall stand transferred to the Authority from the stage at which such application or proceeding stood as on the date of such assent.".

Omission of section 28G.

95. In the Customs Act, section 28G shall be omitted.

Amendment of section 28H.

96. In the Customs Act, in section 28H, in sub-section (*3*), for the words "two thousand five hundred rupees", the words "ten thousand rupees" shall be substituted.

Amendment of section 28-I.

97. In the Customs Act, in section 28-I, in sub-section (*6*), for the words "ninety days", the words "six months" shall be substituted.

Insertion of new section 30A.

98. In the Customs Act, after section 30, the following section shall be inserted, namely:—

Passenger and crew arrival manifest and passenger name record information.

"30A. (*1*) The person-in-charge of a conveyance that enters India from any place outside India or any other person as may be specified by the Central Government by notification in the Official Gazette, shall deliver to the proper officer—

(*i*) the passenger and crew arrival manifest before arrival in the case of an aircraft or a vessel and upon arrival in the case of a vehicle; and

(*ii*) the passenger name record information of arriving passengers,

in such form, containing such particulars, in such manner and within such time, as may be prescribed.

(*2*) Where the passenger and crew arrival manifest or the passenger name record information or any part thereof is not delivered to the proper officer within the prescribed time and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or the other person referred to in sub-section (*1*) shall be liable to such penalty, not exceeding fifty thousand rupees, as may be prescribed.".

Insertion of new section 41A.

99. In the Customs Act, after section 41, the following section shall be inserted, namely:—

Passenger and crew departure manifest and passenger name record information.

"41A. (*1*) The person-in-charge of a conveyance that departs from India to a place outside India or any other person as may be specified by the Central Government by notification in the Official Gazette, shall deliver to the proper officer—

(*i*) the passenger and crew departure manifest; and

(*ii*) the passenger name record information of departing passengers,

in such form, containing such particulars, in such manner and within such time, as may be prescribed.

(*2*) Where the passenger and crew departure manifest or the passenger name record information or any part thereof is not delivered to the proper officer within the

prescribed time and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or the other person referred to in sub-section (*1*) shall be liable to such penalty, not exceeding fifty thousand rupees, as may be prescribed.".

Amendment of section 46.

100. In the Customs Act, in section 46, for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) The importer shall present the bill of entry under sub-section (*1*) before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing:

Provided that a bill of entry may be presented within thirty days of the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India:

Provided further that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed.".

Amendment of section 47.

101. In the Customs Act, in section 47, in sub-section (*2*), for the portion beginning with the words "Where the importer fails to pay" and ending with the words "in the Official Gazette", the following shall be substituted, namely:—

"The importer shall pay the import duty—

(*a*) on the date of presentation of the bill of entry in the case of self-assessment; or

(*b*) within one day (excluding holidays) from the date on which the bill of entry is returned to him by the proper officer for payment of duty in the case of assessment, reassessment or provisional assessment; or

(*c*) in the case of deferred payment under the proviso to sub-section (*1*), from such due date as may be specified by rules made in this behalf,

and if he fails to pay the duty within the time so specified, he shall pay interest on the duty not paid or short-paid till the date of its payment, at such rate, not less than ten per cent. but not exceeding thirty-six per cent. per annum, as may be fixed by the Central Government, by notification in the Official Gazette.".

Substitution of new section for section 49.

102. In the Customs Act, for section 49, the following section shall be substituted, namely:—

"49.Where,—

Storage of imported goods in warehouse pending clearance or removal.

(*a*) in the case of any imported goods, whether dutiable or not, entered for home consumption, the Assistant Commissioner of Customs or Deputy Commissioner of Customs is satisfied on the application of the importer that the goods cannot be cleared within a reasonable time;

(*b*) in the case of any imported dutiable goods, entered for warehousing, the Assistant Commissioner of Customs or Deputy Commissioner of Customs is satisfied on the application of the importer that the goods cannot be removed for deposit in a warehouse within a reasonable time,

the goods may pending clearance or removal, as the case may be, be permitted to be stored in a public warehouse for a period not exceeding thirty days:

Provided that the provisions of Chapter IX shall not apply to goods permitted to be stored in a public warehouse under this section:

Provided further that the Principal Commissioner of Customs or Commissioner of Customs may extend the period of storage for a further period not exceeding thirty days at a time.".

Amendment of section 69.

103. In the Customs Act, in section 69, in sub-section (*1*), for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) a shipping bill or a bill of export or the form as prescribed under section 84 has been presented in respect of such goods;".

Omission of section 82.

104. In the Customs Act, section 82 shall be omitted.

Amendment of section 84.

105. In the Customs Act, in section 84, for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) the form and manner in which an entry may be made in respect of goods imported or to be exported by post;".

Amendment of section 127B.

106. In the Customs Act, in section 127B, after sub-section (*4*), the following sub-section shall be inserted, namely:—

"(*5*) Any person, other than an applicant referred to in sub-section (*1*), may also make an application to the Settlement Commission in respect of a show cause notice issued to him in a case relating to the applicant which has been settled or is pending before the Settlement Commission and such notice is pending before an adjudicating authority, in such manner and subject to such conditions, as may be specified by rules.".

Amendment of section 127C.

107. In the Customs Act, in section 127C, after sub-section (*5*), the following sub-section shall be inserted, namely:—

"(*5A*) The Settlement Commission may, at any time within three months from the date of passing of the order under sub-section (*5*), amend such order to rectify any error apparent on the face of record, either *suo motu* or when such error is brought to its notice by the jurisdictional Principal Commissioner of Customs or Commissioner of Customs or the applicant:

Provided that no amendment which has the effect of enhancing the liability of the applicant shall be made under this sub-section, unless the Settlement Commission has given notice of such intention to the applicant and the jurisdictional Principal Commissioner of Customs or Commissioner of Customs as the case may be, and has given them a reasonable opportunity of being heard.".

Amendment of section 157.

108. In the Customs Act, in section 157, in sub-section (*2*), after clause (*aa*), the following clause shall be inserted, namely:—

"(*ab*) the form, the particulars, the manner and the time of delivering the passenger and crew manifest for arrival and departure and passenger name record information and the penalty for delay in delivering such information under sections 30A and 41A;".

Customs Tariff

51 of 1975.

109. In the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), in section 9, in sub-section (*3*), for clause (*c*), the following clause shall be substituted, namely:— Amendment of section 9.

"(*c*) the subsidy has been conferred on a limited number of persons engaged in the manufacture, production or export of articles;".

110. In the Customs Tariff Act, the First Schedule shall— Amendment of First Schedule.

(*a*) be amended in the manner specified in the Second Schedule;

(*b*) be also amended in the manner specified in the Third Schedule.

111. In the Customs Tariff Act, the Second Schedule shall be amended in the manner specified in the Fourth Schedule. Amendment of Second Schedule.

Excise

1 of 1944.

112. In the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), in section 23A, for clause (*e*), the following clause shall be substituted, namely:— Amendment of section 23A.

'(*e*) "Authority" means the Authority for Advance Rulings as defined in clause (*e*) of section 28E of the Customs Act, 1962;'.

52 of 1962.

113. In the Central Excise Act, section 23B shall be omitted. Omission of section 23B.

114. In the Central Excise Act, in section 23C, in sub-section (*3*), for the words "two thousand and five hundred rupees", the words "ten thousand rupees" shall be substituted. Amendment of section 23C.

115. In the Central Excise Act, in section 23D, in sub-section (*6*), for the words "ninety days", the words "six months" shall be substituted. Amendment of section 23D.

116. In the Central Excise Act, after section 23H, the following section shall be inserted, namely:— Insertion of new section 23-I

"23-I. On and from the date on which the Finance Bill, 2017 receives the assent of the President, every application and proceeding pending before the erstwhile Authority for Advance Rulings (Central Excise, Customs and Service Tax) shall stand transferred to the Authority from the stage at which such application or proceeding stood as on the date of such assent.". Transitional provision.

117. In the Central Excise Act, in section 32E, after sub-section (*4*), the following sub-section shall be inserted, namely:— Amendment of section 32E.

"(*5*) Any person other than an assessee, may also make an application to the Settlement Commission in respect of a show cause notice issued to him in a case relating to the assessee which has been settled or is pending before the Settlement Commission and such notice is pending before an adjudicating authority, in such manner and subject to such conditions, as may be prescribed.".

118. In the Central Excise Act, in section 32F,— Amendment of section 32F.

(*i*) in sub-section (*1*), for words, brackets and figure "sub-section (*1*) of" shall be omitted;

(*ii*) after sub-section (*5*), the following sub-section shall be inserted, namely:–

"(*5A*) The Settlement Commission may, at any time within three months from the date of passing of the order under sub-section (*5*), amend such order to rectify any error apparent on the face of record, either *suo motu* or when

such error is brought to its notice by the jurisdictional Principal Commissioner of Central Excise or Commissioner of Central Excise or the applicant:

Provided that no amendment which has the effect of enhancing the liability of the applicant shall be made under this sub-section, unless the Settlement Commission has given notice of such intention to the applicant and the jurisdictional Principal Commissioner of Central Excise or Commissioner of Central Excise as the case may be, and has given them a reasonable opportunity of being heard.'.

Central Excise Tariff

Amendment of First Schedule.

119. In the Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act), the First Schedule shall be amended in the manner specified in the Fifth Schedule. 5 of 1986.

Retrospective amendment of certain entries in First Schedule.

120. In the Central Excise Tariff Act, in the First Schedule, in Chapter 87, in column (4), for the entry "27%" occurring against tariff items 8702 90 21, 8702 90 22, 8702 90 28 and 8702 90 29, the entry "12.5%" shall be substituted and shall be deemed to have been substituted retrospectively with effect from the 1st day of January, 2017.

CHAPTER V

SERVICE TAX

Amendment of section 65B.

121. In the Finance Act, 1994 (hereinafter referred to as the 1994 Act), in section 65B, clause (*40*) shall be omitted. 32 of 1994.

Amendment of section 66D.

122. In the 1994 Act, in section 66D, clause (*f*) shall be omitted.

Amendment of section 96A

123. In the 1994 Act, in section 96A, for clause (*d*), the following clause shall be substituted, namely:—

'(*d*) "Authority" means the Authority for Advance Rulings as defined in clause (*e*) of section 28E of the Customs Act, 1962;'. 52 of 1962.

Omission of section 96B.

124. In the 1994 Act, section 96B shall be omitted.

Amendment of section 96C.

125. In the 1994 Act, in section 96C, in sub-section (*3*), for the words "two thousand and five hundred rupees", the words "ten thousand rupees" shall be substituted.

Amendment of section 96D.

126. In the 1994 Act, in section 96D, in sub-section (*6*), for the words "ninety days", the words "six months" shall be substituted.

Insertion of new section 96HA.

127. In the 1994 Act, after section 96H, the following section shall be inserted, namely:—

Transitional provision.

"96HA. On and from the date on which the Finance Bill, 2017 receives the assent of the President, every application and proceeding pending before the erstwhile Authority for Advance Rulings (Central Excise, Customs and Service Tax) shall stand transferred to the Authority from the stage at which such application or proceeding stood as on the date of such assent.".

Insertion of new sections 104 and 105.

128. In the 1994 Act, after section 103, the following sections shall be inserted, namely:—

Special provision for exemption in certain cases relating to long term lease of industrial plots.

"104. (*1*) Notwithstanding anything contained in section 66, as it stood prior to the 1st day of July, 2012, or in section 66B, no service tax, leviable on one time upfront amount (premium, salami, cost, price, development charge or by whatever name called) in respect of taxable service provided or agreed to be provided by a State Government industrial development corporation or undertaking to industrial

units by way of grant of long term lease of thirty years or more of industrial plots, shall be levied or collected during the period commencing from the 1st day of June, 2007 and ending with the 21st day of September, 2016 (both days inclusive).

(*2*) Refund shall be made of all such service tax which has been collected, but which would not have been so collected, had sub-section (*1*) been in force at all material times.

(*3*) Notwithstanding anything contained in this Chapter, an application for claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2017 receives the assent of the President.

Special provision for exemption in certain cases relating to life insurance services provided to members of armed forces of Union.

105. (*1*) Notwithstanding anything contained in section 66, as it stood prior to the 1st day of July, 2012, or in section 66B, no service tax shall be levied or collected in respect of taxable services provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds by way of life insurance to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government, during the period commencing from the 10th day of September, 2004 and ending with the 1st day of February, 2017 (both days inclusive).

(*2*) Refund shall be made of all such service tax which has been collected, but which would not have been so collected, had sub-section (*1*) been in force at all material times.

(*3*) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2017 receives the assent of the President.".

Amendment of rule 2A of Service Tax (Determination of Value) Rules, 2006, retrospectively.

129. (*1*) In the Service Tax (Determination of Value) Rules, 2006 made by the Central
32 of 1994. Government in exercise of the powers conferred by section 94 of the Finance Act, 1994, published in the Gazette of India *vide* notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 228(*E*), dated the 19th April, 2006,—

(*a*) rule 2A as inserted by the Service Tax (Determination of Value) (Amendment) Rules, 2007 published *vide* number G.S.R. 375(*E*), dated the 22nd May, 2007; and

(*b*) rule 2A as substituted by the Service Tax (Determination of Value) Second Amendment Rules, 2012 published *vide* number G.S.R. 431(*E*), dated the 6th June, 2012,

shall stand amended and shall be deemed to have been amended in the manner specified in column (3) of the Sixth Schedule, on and from and up to the corresponding date specified in column (4), against each of the rule specified in column (2) thereof.

(*2*) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done at any time during the period specified in column (4) of the Sixth Schedule relating to the provisions as amended by sub-section (*1*) shall be deemed to be and deemed always to have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (*1*) had been in force at all material times.

(*3*) For the purposes of sub-section (*1*), the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central
32 of 1994. Government had the power to make rules under section 94 of the Finance Act, 1994, retrospectively, at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had this section not come into force.

CHAPTER VI

MISCELLANEOUS

PART I

AMENDMENTS TO THE INDIAN TRUSTS ACT, 1882

Commencement of this Part.

130. The provisions of this Part shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 20 of Act 2 of 1882.

131. In section 20 of the Indian Trusts Act,1882 [as substituted by section 2 of the Indian Trusts (Amendment) Act, 2016],—

(*i*) for the words "invest the money in any of the securities or class of securities expressly authorised by the instrument of trust or", the words "make investments as expressly authorised by the instrument of trust or in any of the securities or class of securities" shall be substituted;

(*ii*) in the proviso, the words "in any of the securities or class of securities mentioned above" shall be omitted.

PART II

AMENDMENTS TO THE INDIAN POST OFFICE ACT, 1898

Commencement of this Part.

132. The provisions of this Part shall come into force on the 1st day of April, 2017.

Amendment of section 7 of Act 6 of 1898.

133. In section 7 of the Indian Post Office Act, 1898,—

(*a*) in sub-section (*1*), for the proviso, the following proviso shall be substituted, namely:—

"Provided that until such notification is issued, the rates set forth in the First Schedule shall be the rates chargeable under this Act.";

(*b*) sub-section (*2*) shall be omitted.

PART III

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

Commencement of this Part.

134. The provisions of this Part shall come into force on the 1st day of April, 2017.

Amendment of section 31 of Act 2 of 1934.

135. In the Reserve Bank of India Act, 1934, in section 31, after sub-section (*2*), the following sub-section shall be inserted, namely:—

'(*3*) Notwithstanding anything contained in this section, the Central Government may authorise any scheduled bank to issue electoral bond.

Explanation.— For the purposes of this sub-section, ''electroal bond'' means a bond issued by any scheduled bank under the scheme as may be notified by the Central Government.'.

PART IV

AMENDMENTS TO THE REPRESENTATION OF THE PEOPLE ACT, 1951

Commencement of this Part.

136.The provisions of this Part shall come into force on the 1st day of April, 2017.

Amendment of section 29C of Act 43 of 1951.

137. In the Representation of the People Act, 1951, in section 29C, in sub-section (*1*), the following shall be inserted, namely:—

'Provided that nothing contained in this sub-section shall apply to the contributions received by way of an electoral bond.

Explanation.—For the purposes of this sub-section, "electoral bond" means a bond referred to in the *Explanation* to sub-section (*3*) of section 31 of the Reserve Bank of India Act, 1934. 2 of 1934.

PART V

AMENDMENT TO THE SECURITES CONTRACTS (REGULATION) ACT, 1956

42 of 1956.

138. In the Securities Contracts (Regulation) Act, 1956, in section 23J, the following *Explanation* shall be inserted, namely:— Amendment of section 23J.

"*Explanation.*—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 23A to 23C shall be and shall always be deemed to have exercised under the provisions of this section.".

PART VI

AMENDMENTS TO THE OIL INDUSTRY (DEVELOPMENT) ACT, 1974

139. The provisions of this Part shall come into force on the 1st day of April, 2017. Commencement of this Part.

140. In the Oil Industry (Development) Act, 1974, in section 18, in sub-section (*2*), after clause (*d*), the following clauses shall be inserted, namely:— Amendment of section 18 of Act 47 of 1974.

"(*e*) for meeting any expenditure incurred by any Central Public Sector Undertaking in the oil and gas sector, on behalf of the Central Government;

(*f*) for meeting expenditure on any scheme or activity by the Central Government relating to oil and gas sector.".

PART VII

REPEAL OF THE RESEARCH AND DEVELOPMENT CESS ACT, 1986.

141. The provisions of this Part shall come into force on the 1st day of April, 2017. Commencement of this Part.

142. The Research and Development Cess Act, 1986 is hereby repealed. Repeal of Act 32 of 1986.

143. (*1*) The repeal of the Research and Development Cess Act, 1986 by this Act shall not— Savings.

(*a*) affect any other enactment in which the repealed enactment has been applied, incorporated or referred to;

(*b*) affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

(*c*) affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in or from the enactment hereby repealed;

(*d*) revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

(*2*) The mention of particular matter in sub-section (*1*) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeal.

10 of 1897.

32 of 1986.

144. Notwithstanding the repeal of the Research and Development Cess Act, 1986, the proceeds of duties levied under the said Act immediately preceding the date of commencement of this Part,— Collection and payment of arrears of duties.

(*i*) if collected by the collecting agencies but not paid into the Reserve Bank of India; or

(*ii*) if not collected by the collecting agencies,

shall be paid or, as the case may be, collected and paid into the Reserve Bank of India for being credited to the Consolidated Fund of India.

PART VIII

AMENDMENTS TO THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

Commencement of this Part.

145.The provisions of this Part shall come into force on such date as the Central Government may, by notification, appoint, and different dates may be appointed for different provisions of this Part.

Amendment of Act 15 of 1992.

146. In the Securities and Exchange Board of India Act, 1992 (hereafter in this Part referred to as the principal Act), in section 2, in sub-section (*1*),— 15 of 1992.

(*A*) after clause (*d*), the following clauses shall be inserted, namely:—

'(*da*) "Insurance Regulatory and Development Authority" means the Insurance Regulatory and Development Authority of India established under sub-section (*1*) of section 3 of the Insurance Regulatory and Development Authority Act, 1999; 41 of 1999.

(*db*) "Judicial Member" means a Member of the Securities Appellate Tribunal appointed under sub-section (*1*) of section 15MA and includes the Presiding Officer;';

(*B*) after clause (*f*), the following clause shall be inserted, namely:—

'(*fa*) "Pension Fund Regulatory and Development Authority" means the Pension Fund Regulatory and Development Authority established under sub-section (*1*) of section 3 of the Pension Fund Regulatory and Development Authority Act, 2013;'; 23 of 2013.

(*C*) after clause (*i*), the following clause shall be inserted, namely:—

'(*j*) "Technical Member" means a Technical Member appointed under sub-section (*1*) of section 15MB.'.

Amendment of section 15J.

147. In section 15J of the principal Act, the following *Explanation* shall be inserted, namely:—

"*Explanation.*—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (*b*) and (*c*) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.".

Amendment of Chapter VIB.

148. In Chapter VIB of the principal Act,—

(*a*) in the chapter heading, for the words "APPELLATE TRIBUNAL", the words "SECURITIES APPELLATE TRIBUNAL" shall be substituted;

(*b*) for section 15K, the following section shall be substituted, namely:—

Establishment of Securities Appellate Tribunal.

"15K. (*1*) The Central Government shall, by notification, establish a Tribunal to be known as the Securities Appellate Tribunal to exercise the jurisdiction, powers and authority conferred on it by or under this Act or any other law for the time being in force.

(*2*) The Central Government shall also specify in the notification referred to in sub-section (*1*), the matters and places in relation to which the Securities Appellate Tribunal may exercise jurisdiction.";

(*c*) for section 15L, the following section shall be substituted, namely:—

Composition of Securities Appellate Tribunal.

"15L. (*1*) The Securities Appellate Tribunal shall consist of a Presiding Officer and such number of Judicial Members and Technical Members as the Central Government may determine, by notification, to exercise the powers and discharge the functions conferred on the Securities Appellate Tribunal under this Act or any other law for the time being in force.

(*2*) Subject to the provisions of this Act,—

(*a*) the jurisdiction of the Securities Appellate Tribunal may be exercised by Benches thereof;

(*b*) a Bench may be constituted by the Presiding Officer of the Securities Appellate Tribunal with two or more Judicial or Technical Members as he may deem fit:

Provided that every Bench constituted shall include at least one Judicial Member and one Technical Member;

(*c*) the Benches of the Securities Appellate Tribunal shall ordinarily sit at Mumbai and may also sit at such other places as the Central Government may, in consultation with the Presiding Officer, notify.

(*3*) Notwithstanding anything contained in sub-section (*2*), the Presiding Officer may transfer a Judicial Member or a Technical Member of the Securities Appellate Tribunal from one Bench to another Bench.";

(*d*) for section 15M, the following sections shall be substituted, namely:—

Qualification for appointment as Presiding Officer, Judicial Member and Technical Member.

"15M. A person shall not be qualified for appointment as the Presiding Officer or a Judicial Member or a Technical Member of the Securities Appellate Tribunal, unless he—

(*a*) is, or has been, a Judge of the Supreme Court or a Chief Justice of a High Court or a Judge of High Court for at least seven years, in the case of the Presiding Officer; and

(*b*) is, or has been, a Judge of High Court for at least five years, in the case of a Judicial Member; or

(*c*) in the case of a Technical Member—

(*i*) is, or has been, a Secretary or an Additional Secretary in the Ministry or Department of the Central Government or any equivalent post in the Central Government or a State Government; or

(*ii*) is a person of proven ability, integrity and standing having special knowledge and professional experience, of not less than fifteen years, in financial sector including securities market or pension funds or commodity derivatives or insurance.

Amendment of Presiding Officer and Judicial Members.

15MA. The Presiding Officer and Judicial Members of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.

Search-cum-Selection Committee for appointment of Technical Members.

15MB. (*1*) The Technical Members of the Securities Appellate Tribunal shall be appointed by the Central Government on the recommendation of a Search-cum-Selection Committee consisting of the following, namely:—

(*a*) Presiding Officer, Securities Appellate Tribunal—Chairperson;

(*b*) Secretary, Department of Economic Affairs—Member;

(*c*) Secretary, Department of Financial Services—Member; and

(*d*) Secretary, Legislative Department or Secretary, Department of Legal Affairs—Member.

(*2*) The Secretary, Department of Economic Affairs shall be the Convener of the Search-cum-Selection Committee.

(*3*) The Search-cum-Selection Committee shall determine its procedure for recommending the names of persons to be appointed under sub-section (*1*).

Vacancy not to invalidate selection proceeding.

15MC. (*1*) No appointment of the Presiding Officer, a Judicial Member or a Technical Member of the Securities Appellate Tribunal shall be invalid merely by reason of any vacancy or any defect in the constitution of the Search-cum-Selection Committee.

(*2*) A member or part time member of the Board or the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority, or any person at senior management level equivalent to the Executive Director in the Board or in such Authorities, shall not be appointed as Presiding Officer or Member of the Securities Appellate Tribunal, during his service or tenure as such with the Board or with such Authorities, as the case may be, or within two years from the date on which he ceases to hold office as such in the Board or in such Authorities.

(*3*) The Presiding Officer or such other member of the Securities Appellate Tribunal, holding office on the date of commencement of Part VIII of Chapter VI of the Finance Act, 2017 shall continue to hold office for such term as he was appointed and the other provisions of this Act shall apply to such Presiding Officer or such other member, as if Part VIII of Chapter VI of the Finance Act, 2017 had not been enacted.";

(*e*) for section 15N, the following section shall be substituted, namely:—

Tenure of office of Presiding Officer, Judicial or Technical Members of Securities Appellate Tribunal.

"15N. The Presiding Officer or every Judicial or Technical Member of the Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office, and shall be eligible for reappointment for another term of maximum five years:

Provided that no Presiding Officer or the Judicial or Technical Member shall hold office after he has attained the age of seventy years.";

(*f*) after section 15P, the following section shall be inserted, namely:—

Member to act as Presiding Officer in certain circumstances.

"15PA. In the event of occurrence of any vacancy in the office of the Presiding Officer of the Securities Appellate Tribunal by reason of his death, resignation or otherwise, the senior-most Judicial Member of the Securities Appellate Tribunal shall act as the Presiding Officer until the date on which a new Presiding Officer is appointed in accordance with the provisions of this Act.";

(*g*) in section 15Q, for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) The Central Government may, after an inquiry made by the Judge of the Supreme Court, remove the Presiding Officer or Judicial Member or Technical Member of the Securities Appellate Tribunal, if he—

(*a*) is, or at any time has been adjudged as an insolvent;

(*b*) has become physically or mentally incapable of acting as the Presiding Officer, Judicial or Technical Member;

(*c*) has been convicted of any offence which, in the opinion of the Central Government, involves moral turpitude;

(*d*) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest; or

(*e*) has acquired such financial interest or other interest as is likely to affect prejudicially his functions as the Presiding Officer or Judicial or Technical Member:

Provided that he shall not be removed from office under clauses (*d*) and (*e*), unless he has been given a reasonable opportunity of being heard in the matter.";

(*h*) In section 15T,—

(*I*) in sub-section (*1*),—

(*A*) in clause (*b*), for the words "under this Act,", the words "under this Act; or" shall be substituted;

(*B*) after clause (*b*) and before the long line, the following clause shall be inserted, namely:—

"(*c*) by an order of the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority,";

(*II*) in sub-section (*3*), after the words "adjudicating officer", the words "or the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority" shall be inserted;

(*III*) in sub-section (*5*), after the words "the Board", the words "or the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority, as the case may be" shall be inserted;

(*i*) in section 15U, after sub-section (*3*), the following sub-sections shall be inserted, namely:—

"(*4*) Where Benches are constituted, the Presiding Officer of the Securities Appellate Tribunal may, from time to time make provisions as to the distribution of the business of the Securities Appellate Tribunal amongst the Benches and also provide for the matters which may be dealt with, by each Bench.

(*5*) On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Presiding Officer of the Securities Appellate Tribunal may transfer any case pending before one Bench, for disposal, to any other Bench.

(*6*) If a Bench of the Securities Appellate Tribunal consisting of two members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Presiding Officer of the Securities Appellate Tribunal who shall either hear the point or points himself or refer the case for hearing only on such point or points by one or more of the other members of the Securities Appellate Tribunal and such point or points shall be decided according to the opinion of the majority of the members of the Securities Appellate Tribunal who have heard the case, including those who first heard it.".

PART IX

AMENDMENT TO THE DEPOSITORIES ACT, 1996

22 of 1996.

149. In the Depositories Act, 1996, in section 19-I, the following *Explanation* shall be inserted, namely:— Amendment of section 19-I.

"*Explanation.*—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 19A to 19F shall be and shall always be deemed to have been exercised under the provisions of this section.''.

PART X

AMENDMENT TO THE FINANCE ACT, 2005

150. In the Finance Act, 2005, the Seventh Schedule shall be amended in the manner specified in the Seventh Schedule. Amendment of Act 18 of 2005.

PART XI

AMENDMENTS TO THE PAYMENT AND SETTLEMENT SYSTEMS ACT, 2007

151. The provisions of this Part shall come into force on such date as the Central Government may, by notification, appoint, and different dates may be appointed for different provisions of this Part. Commencement of this Part.

Amendment of Act 51of 2007.

152. In the Payment and Settlement Systems Act, 2007 (hereafter in this Part referred to as the principal Act), for Chapter II, the following Chapter shall be substituted, namely:— 51 of 2007.

'CHAPTER II

DESIGNATED AUTHORITY

Designated authority.

3. (*1*) The Reserve Bank shall be the designated authority for the regulation and supervision of payment systems under this Act.

(*2*) The Reserve Bank shall exercise the powers, perform the functions and discharge the duties conferred on it under this Act through a Board to be known as the "Payments Regulatory Board".

(*3*) The Board shall consist of the following members, namely:—

(*a*) the Governor of the Reserve Bank—Chairperson, *ex officio*;

(*b*) the Deputy Governor of the Reserve Bank in-charge of the Payment and Settlement Systems—Member, *ex officio*;

(*c*) one officer of the Reserve Bank to be nominated by the Central Board of the Reserve Bank—Member, *ex officio*; and

(*d*) three persons to be nominated by the Central Government—Members.

(*4*) The powers and functions of the Board referred to in sub-section (*2*), the time and venue of its meetings, the procedures to be followed in such meetings (including the quorum at such meetings) and other matters incidental thereto shall be such as may be prescribed.'.

Amendment of section 38.

153. In section 38 of the principal Act, in sub-section (*2*), in clause (*a*), for the words, brackets and figure "Committee constituted under sub-section (*2*)", the words, brackets and figure "Board referred to in sub-section (*2*)" shall be substituted.

PART XII

AMENDMENT TO THE COMPANIES ACT, 2013

Amendment of section 182.

154. In the Companies Act, 2013, in section 182— 18 of 2013.

(*i*) in sub-section (1),—

(*a*) first proviso shall be omitted;

(*b*) in the second proviso, —

(*A*) the word "further" shall be omitted;

(*B*) the words "and the acceptance" shall be omitted;

(*ii*) for sub-section (*3*), the following shall be substituted, namely:—

''(3) Every company shall disclose in its profit and loss account the total amount contributed by it under this section during the financial year to which the account relates.

(3A) Notwithstanding anything contained in sub-section (*1*), the contribution under this section shall not be made except by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account:

Provided that a company may make contribution through any instrument, issued pursuant to any scheme notified under any law for the time being in force, for contribution to the political parties.''.

PART XIII

AMENDMENT TO THE FINANCE ACT, 2016

Amendment of Act 28 of 2016.

155. In the Finance Act, 2016,—

(*i*) in section 50, for the words, figures and letters "with effect from the 1st day of April, 2017", the words, figures and letters "and shall be deemed to have been substituted with effect from the 1st day of April, 2013" shall be substituted;

(*ii*) in section 197, clause (*c*) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of June, 2016.

'PART XIV

AMENDMENTS TO CERTAIN ACTS TO PROVIDE FOR MERGER OF TRIBUNALS AND OTHER AUTHORITIES AND CONDITIONS OF SERVICE OF CHAIRPERSONS, MEMBERS, ETC.

A.— PRELIMINARY

Commencement of this Part.

156. The provisions of this Part shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Part and any reference in any provision to the commencement of this Part shall be construed as a reference to the coming into force of that provision.

Definitions.

157. In this Part, unless the context otherwise requires,—

(*a*) "appointed day", in relation to any provision of this Part, means such date as the Central Government may, by notification in the Official Gazette, appoint;

(*b*) "Authority" means the Authority, other than Tribunals and Appellate Tribunals, specified in the Eighth Schedule or Ninth Schedule, as the case may be;

(*c*) "notification" means a notification published in the Official Gazette;

(*d*) "Schedule" means the Eighth Schedule and Ninth Schedule appended to this Act.

B.—AMENDMENTS TO THE INDUSTRIAL DISPUTES ACT, 1947 *AND THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT,* 1952.

Amendment of Act 14 of 1947.

158. In the Industrial Disputes Act, 1947,—

(*a*) in section 7A, after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) The Industrial Tribunal constituted by the Central Government under sub-section (*1*) shall also exercise, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, the jurisdiction, powers and authority conferred on the Tribunal referred to in section 7D of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.";

19 of 1952.

(*b*) after section 7C, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Presiding Officer.

"7D. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation and removal and other terms and conditions of service of the Presiding Officer of the Industrial Tribunal appointed by the Central Government under sub-section (*1*) of section 7A, shall, after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be governed by the provisions of section 184 of that Act:

Provided that the Presiding Officer appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

Amendment of Act 19 of 1952.

159. In the Employees' Provident Funds and Miscellaneous Provisions Act, 1952,—

(*a*) in section 2, for clause (*m*), the following clause shall be substituted, namely:—

'(*m*) "Tribunal" means the Industrial Tribunal referred to in section 7 D;';

(*b*) for section 7D, the following section shall be substituted, namely:—

Tribunal.

"7D. The Industrial Tribunal constituted by the Central Government under sub-section (*1*) of section 7A of the Industrial Disputes Act, 1947 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Tribunal for the purposes of this Act and the said Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act.";

(*c*) sections 7E, 7F, 7G ,7H, 7M and 7N shall be omitted;

(*d*) for section 18A, the following section shall be substituted, namely:—

Authorities and inspector to be public servant.

"18A. The authorities referred to in section 7A and every inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code."; 45 of 1860.

(*e*) in section 21, in sub-section (*2*), clause (*a*) shall be omitted.

C.—AMENDMENTS TO THE COPYRIGHT ACT, 1957 *AND THE TRADE MARKS ACT,* 1999.

Amendment of Act 14 of 1957.

160. In the Copy Right Act, 1957,—

(*a*) for the words "Copyright Board", wherever they occur, the words "Appellate Board" shall be substituted;

(*b*) in section 2, after clause (*a*), the following clause shall be inserted, namely:—

'(*aa*) "Appellate Board" means the Appellate Board referred to in section 11';

(*c*) for section 11, the following section shall be substituted, namely:—

Appellate Board.

"11. The Appellate Board established under section 83 of the Trade Marks Act, 1999 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Appellate Board for the purposes of this Act and the said Appellate Board shall exercise the jurisdiction, powers and authority conferred on it by or under this Act."; 47 of 1999.

(*d*) in section 12, sub-sections (*3*) and (*4*) shall be omitted;

(*e*) in section 78, in sub-section (*2*), clause (*a*) shall be omitted.".

Amendment of Act 47 of 1999.

161. In the Trade Marks Act, 1999,—

(*a*) for the word "Chairman" or "Vice-Chairman", wherever it occurs, the word "Chairperson" or "Vice-Chairperson" shall be substituted;

(*b*) in section 83, after the words "under this Act", the words and figures "and under the Copyright Act, 1957" shall be inserted; 47 of 1957.

(*c*) after section 89, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Chairperson, Vice-Chairperson and Member.

"89A. Notwithstanding anything in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the Chairperson, Vice-Chairperson and other Members of the Appellate Board appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson, Vice-Chairperson and other Members appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017, had not come into force.".

D.—AMENDMENTS TO THE RAILWAY CLAIMS TRIBUNAL ACT, 1987 *AND THE RAILWAYS ACT,* 1989.

Amendment of Act 54 of 1987.

162. In the Railway Claims Tribunal Act, 1987,—

(*a*) in section 3, after the words "under this Act", the words, letters and figures "and under Chapter VII of the Railways Act,1989" shall be inserted; 24 of 1989.

(*b*) after section 9, the following section shall be substituted, namely:—

Qualifications, terms and conditions of service of Chairman, Vice-Chairman and Member.

"9A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the Chairman, Vice-Chairman and other Members of the Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairman, Vice-Chairman and Members appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017, had not come into force.";

(*c*) in section 13, after sub-section (*IA*), the following sub-section shall be inserted, namely:—

"(*1B*) The Claims Tribunal shall also exercise, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, the jurisdiction, powers and authority conferred on the Tribunal under Chapter VII of the Railways Act,1989."; 24 of 1989.

(*d*) in section 15, for the words, brackets, figures and letter "sub-sections (*1*) and (*1A*)", the words, brackets, figures and letters "sub-sections (*1*), (*1A*) and (*1B*)" shall be substituted;

(*e*) in section 24, in sub-section (*1*), for the words, brackets, figure and letter "or, as the case may be, the date of commencement of the provisions of sub-section (*1A*)", at both the places where they occur, the words, brackets, figures and letters "or the date of commencement of the provisions of sub-section (*1A*), or, as the case may be, the date of commencement of the provisions of sub-section (*1B*)" shall be substituted.

24 of 1989. **163.** In the Railways Act, 1989,— Amendment of Act 24 of 1989.

(*a*) in section 2, for clause (*40*), the following clause shall be substituted, namely:—

'(*40*) "Tribunal" means the Tribunal referred to in section 33;';

(*b*) in Chapter VII, for the heading, the following heading shall be substituted, namely:—

"TRIBUNAL";

(*c*) for section 33, the following section shall be substituted, namely:—

Tribunal.

"33. The Railway Claims Tribunal established under section 3 of the Railway Claims Tribunal Act, 1987 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Tribunal for the purposes of this Act and the said Tribunal shall exercise the jurisdiction, authority and powers conferred on it by or under this Act."; 54 of 1987.

(*d*) sections 34 and 35 shall be omitted;

(*e*) in section 48, in sub-section (*2*), clause (*a*) shall be omitted.

E.—AMENDMENTS TO THE SMUGGLERS AND FOREIGN EXCHANGE MANIPULATORS (FORFEITURE OF PROPERTY) ACT, 1976 *AND THE FOREIGN EXCHANGE MANAGEMENT ACT,* 1999.

Amendment of Act 13 of 1976.

164. In the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976,—

(*a*) in section 12, in sub-section (*1*), after clause (*c*), the following clause shall be inserted, namely:—

"(*d*) by the Adjudicating Authorities, Competent Authorities and the Qualifications, Special Director (Appeals) under the Foreign Exchange Management Act, 1999."; 42 of 1999.

(*b*) after section 12, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Chairperson, and Member.

"12A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairperson and other members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson and other members appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

Amendment of Act 42 of 1999.

165. In the Foreign Exchange Management Act, 1999,—

(*a*) in section 2,—

(*i*) for clause (*b*), the following clause shall be substituted, namely:—

'(*b*) "Appellate Tribunal" means the Appellate Tribunal referred to in section 18;';

(*ii*) in clause (*zc*), for the word and figures "section 18", the word and figures "section 17" shall be substituted;

(*b*) for section 18, the following section shall be substituted, namely:—

Appellate Tribunal.

"18. The Appellate Tribunal constituted under sub-section (*1*) of section 12 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976, shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Appellate Tribunal for the purposes of this Act and the said Appellate Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act."; 13 of 1976.

(*c*) section 20 shall be omitted;

(*d*) for section 21, the following section shall be substituted, namely:—

Qualifications, for appointment of Special Director (Appeals).

"21. A person shall not be qualified for appointment as a Special Director (Appeals) unless he—

(*a*) has been a member of the Indian Legal Service and has held a post in Grade I of that Service; or

(*b*) has been a member of the Indian Revenue Service and has held a post equivalent to a Joint Secretary to the Government of India.";

(*e*) section 22 shall be omitted;

(*f*) for section 23, the following section shall be substituted, namely:—

"23. The salary and allowances payable to and the other terms and conditions of service of the Special Director (Appeals) shall be such as may be prescribed.";

Terms and conditions of service of Special Director (Appeals).

(*g*) sections 24, 25 and 26 shall be omitted;

(*h*) for section 27, the following section shall be substituted, namely:—

"27. (*1*) The Central Government shall provide the office of the Special Director (Appeals) with such officers and employees as it may deem fit.

Staff of Special Director (Appeals).

(*2*) The officers and employees of the office of the Special Director (Appeals) shall discharge their functions under the general superintendence of the Special Director (Appeals).

(*3*) The salaries and allowances and other terms and conditions of service of the officers and employees of the office of the Special Director (Appeals) shall be such as may be prescribed.";

(*i*) sections 29, 30 and 31 shall be omitted;

(*j*) in section 32,—

(*i*) for the words and brackets "Appellate Tribunal or the Special Director (Appeals), as the case may be", at both the places where they occur, the words and brackets "Special Director (Appeals)" shall be substituted;

(*ii*) in sub-section (1), for the words and brackets "Appellate Tribunal or the Special Director (Appeals)", the words and brackets "Special Director (Appeals)" shall be substituted;

(*k*) for section 33, the following section shall be substituted, namely:—

"33. The Adjudicating Authority, Competent Authority and the Special Director (Appeals) and other officers and employees of the Special Director (Appeals) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.";

Officers and employees, etc., to be public servant.

45 of 1860.

(*l*) in section 46, in sub-section (*2*),—

(*i*) in clause (*e*), for the words and brackets "Chairperson and other Members of the Appellate Tribunal and the Special Director (Appeals)", the words and brackets "Special Director (Appeals)" shall be substituted;

(*ii*) in clause (*f*), for the words and brackets "Appellate Tribunal and the office of the Special Director (Appeals)", the words and brackets "office of the Special Director (Appeals)" shall be substituted.

F.—AMENDMENTS TO THE AIRPORTS AUTHORITY OF INDIA ACT, 1994 *AND THE CONTROL OF NATIONAL HIGHWAYS (LAND AND TRAFFIC) ACT,* 2002.

166. In the Airports Authority of India Act, 1994,—

Amendment of Act 55 of 1994.

(*a*) in section 28-I, in sub-section (*1*), after the words "under this Act", the words, brackets and figures "and the Control of National Highways (Land and Traffic) Act, 2002" shall be inserted;

13 of 2003.

(*b*) after section 28J, the following section shall be inserted, namely:—

"28JA. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairperson of the Tribunal

Qualifications, terms and conditions of service of Chairperson.

appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

Amendment of Act 13 of 2003.

167. In the Control of National Highways (Land and Traffic) Act, 2002,—

(*a*) in section 2, for clause (*1*), the following clause shall be substituted, namely:—

'(*1*) "Tribunal" means the Airport Appellate Tribunal referred to in sub section (*1*) of section 5;';

(*b*) in Chapter II, for the heading, the following heading shall be substituted, namely:—

"HIGHWAYS ADMINISTRATION AND TRIBUNALS, ETC.";

(*c*) in section 5,—

(*i*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) The Airport Appellate Tribunal established under section 28-I of the Airports Authority of India Act, 1994 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Tribunal for the purposes of this Act and the said Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act."; 55 of 1994.

(*ii*) in sub-section (*2*), for the words, brackets and figure "shall also specify, in the notification referred to in sub-section (*1*)", the words "shall specify, by notification in the Official Gazette", shall be substituted;

(*d*) sections 6, 7, 8, 9, 10, 11, 12 and 13 shall be omitted;

(*e*) for section 44, the following section shall be substituted, namely:—

Officers of Highways Administration to be public servant.

"44. The officer or officers constituting the Highways Administration and any other officer authorised by such Administration under this Act, shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code."; 45 of 1860.

(*f*) in section 45, for the words "the Presiding Officer of the Tribunal or any other officer of the Central Government or an officer or employee of the Tribunal", the words "any other officer of the Central Government" shall be substituted;

(*g*) in section 50, in sub-section (*2*), clauses (*b*), (*c*), (*d*) and (*e*) shall be omitted.

G.—AMENDMENTS TO THE TELECOM REGULATORY AUTHORITY OF INDIA ACT, 1997, *THE INFORMATION TECHNOLOGY ACT,* 2000 *AND THE AIRPORTS ECONOMIC REGULATORY AUTHORITY OF INDIA ACT,* 2008.

Amendment of Act 24 of 1997.

168. In the Telecom Regulatory Authority of India Act,1997,—

(*a*) in section 14, after clause (*b*), the following clause shall be inserted, namely:—

"(*c*) exercise jurisdiction, powers and authority conferred on—

(*i*) the Appellate Tribunal under the Information Technology Act, 2000; and 21 of 2000.

(*ii*) the Appellate Tribunal under the Airports Economic Regulatory Authority of India Act, 2008.";

27 of 2008.

(*b*) after section 14G, the following section shall be substituted, namely:—

"14GA. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Qualifications, terms and conditions of service of Chairperson and Member.

Provided that the Chairperson and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

169. In the Information Technology Act, 2000,—

Amendment of Act 21 of 2000.

(*a*) for the words "Cyber Appellate Tribunal", wherever they occur, the words "Appellate Tribunal" shall be substituted;

(*b*) in section 2, in sub-section (*1*),—

(*i*) *after* clause (*d*), the following clause shall be inserted, namely:—

'(*da*) "Appellate Tribunal" means the Appellate Tribunal referred to in sub-section (*1*) of section 48;';

(*ii*) clause (*n*) shall be omitted;

(*c*) in section 48,—

(*i*) for the marginal heading, the following marginal heading shall be substituted, namely:—

"APPELLATE TRIBUNAL";

(*ii*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) The Telecom Disputes Settlement and Appellate Tribunal established under section 14 of the Telecom Regulatory Authority of India Act, 1997 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Appellate Tribunal for the purposes of this Act and the said Appellate Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act.".

24 of 1997.

(*iii*) in sub-section (*2*), for the words, brackets and figure "shall also specify, in the notification referred io in sub-section (*1*)", the words "shall specify, by notification" shall be substituted;

(*d*) sections 49, 50, 51, 52, 52A, 52B, 52C, 53, 54 and 56, shall be omitted;

(*e*) for section 82, the following section shall be substituted, namely:—

"82.The Controller, the Deputy Controller and the Assistant Controllers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.";

Controller, Deputy Controller and Assistant Controller to be public servants.

45 of 1860.

(*f*) in section 84, for the words "the Chairperson, Members, adjudicating officers and the staff of the Cyber Appellate Tribunal", the words "and adjudicating officers" shall be substituted;

(*g*) in section 87, in sub-section (*2*), clauses (*r*), (*s*) and (*t*) shall be omitted.

Amendment of Act 27 of 2008.

170. In the Airports Economic Regulatory Authority of India Act, 2008,—

(*a*) in the long title, the words "and also to establish Appellate Tribunal to adjudicate disputes and dispose of appeals" shall be omitted;

(*b*) in section 2, for clause (*d*), the following clause shall be substituted, namely:—

'(*d*) "Appellate Tribunal" means the Telecom Disputes Settlement and Appellate Tribunal referred to in section 17;';

(*c*) in section 17,—

(*i*) for the marginal heading, the following marginal heading shall be substituted, namely:—

"APPELLATE TRIBUNAL"

(*ii*) for the portion beginning with the words "The Central Government" and ending with words "Appellate Tribunal", the words and figures "The Telecom Disputes Settlement and Appellate Tribunal established under section 14 of the Telecom Regulatory Authority of India Act, 1997 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Appellate Tribunal for the purposes of this Act and the said Appellate Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act" shall be substituted; 24 of 1997.

(*d*) sections 19, 20, 21, 22, 23, 24, 25, 26 and 27 shall be omitted;

(*e*) in section 51, in sub-section (*2*), clauses (*i*), (*j*) and (*k*) shall be omitted.

H.—AMENDMENTS TO THE COMPETITION ACT, 2002 *AND THE COMPANIES ACT,* 2013.

Amendment of Act 12 of 2003.

171. In the Competition Act, 2002,—

(*a*) in section 2, for clause (*ba*), the following clause shall be substituted, namely:—

'(*ba*) "Appellate Tribunal" means the National Company Law Appellate Tribunal referred to in sub-section (*1*) of section 53A;';

(*b*) in Chapter VIIIA, for the heading, the following heading shall be substituted, namely:—

"APPELLATE TRIBUNAL";

(*c*) for section 53A, the following section shall be substituted, namely:—

Appellate Tribunal.

"53A. The National Company Law Appellate Tribunal constituted under section 410 of the Companies Act, 2013 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Appellate Tribunal for the purposes of this Act and the said Appellate Tribunal shall— 18 of 2013.

(*a*) hear and dispose of appeals against any direction issued or decision made or order passed by the Commission under sub-sections (*2*) and (6) of section 26, section 27, section 28, section 31, section 32, section 33, section 38, section 39, section 43, section 43A, section 44, section 45 or section 46 of this Act; and

(*b*) adjudicate on claim for compensation that may arise from the findings of the Commission or the orders of the Appellate Tribunal in an appeal against any finding of the Commission or under section 42A or under sub-section (*2*) of section 53Q of this Act, and pass orders for the recovery of compensation under section 53N of this Act.";

(*d*) sections 53C, 53D, 53E, 53F, 53G, 53H, 53-I, 53J, 53K, 53L, 53M and 53R shall be omitted;

(*e*) in section 63, in sub-section (*2*), clauses (*mb*), (*mc*) and (*md*) shall be omitted.

172. In the Companies Act, 2013,— Amendment of Act 18 of 2013.

(*a*) in section 410, for the words "for hearing appeals against the orders of the Tribunal", the following shall be substituted, namely:—

"for hearing appeals against,—

(*a*) the order of the Tribunal under this Act; and

(*b*) any direction, decision or order referred to in section 53N of the Competition Act, 2002 in accordance with the provisions of that Act.";

12 of 2003.

(*b*) after section 417, the following section shall be inserted, namely: —

"417A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act: Qualifications, terms and conditions of service of Chairperson and Member.

Provided that the Chairperson and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

I.—AMENDMENT TO THE CINEMATOGRAPH ACT, 1952

173. In the Cinematograph Act, 1952, after section 5D, the following section shall be inserted, namely:— Amendment of Act 37 of 1952.

"5E. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairman and other members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act: Qualifications, terms and conditions of service of Chairman and Member.

Provided that the Chairman and member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

J.—AMENDMENTS TO THE INCOME- TAX ACT, 1961

174. In the Income Tax Act, 1962,— Amendment of Act 43 of 1961.

(*a*) after section 245-O, the following section shall be inserted, namely:—

"245-OA. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairman, Vice-Chairman and other Members of the Authority appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act: Qualifications, terms and conditions of service of Chairman, Vice-Chairman and Member.

Provided that the Chairman, Vice-Chairman and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made

thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.";

(*b*) after section 252, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of President, Vice-President and Member.

"252A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the President, Vice-President and other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the President, Vice-President and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.";

K.—AMENDMENT TO THE CUSTOMS ACT, 1962

Amendment of Act 52 of 1962.

175. In the Customs Act, 1962, in section 129, after sub-section (6), the following sub-section shall be inserted, namely:—

"(*7*) Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the President, Vice-President or other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the President. Vice-President and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

L.—AMENDMENT TO THE ADMINISTRATIVE TRIBUNALS ACT, 1985

Amendment of Act 13 of 1985.

176. In the Administrative Tribunals Act, 1985, after section 10A, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Chairman and Member.

"10B. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairman and other Members of the Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairman and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

M—AMENDMENT TO THE CONSUMER PROTECTION ACT, 1986

Amendment of Act 68 of 1986.

177. In the Consumer Protection Act, 1986, *after* section 22D, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of President and Member.

"22E. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the President and other members of the

National Commission appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the President and member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

N.—AMENDMENT TO THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

Amendment of Act 15 of 1992.

178. In the Securities and Exchange Board of India Act, 1992, after section 15Q, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Presiding Officer and Member.

"15QA. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Presiding Officer and other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Presiding Officer and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

O.—AMENDMENTS TO THE RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS ACT, 1993

Amendment of Act 51 of 1993.

179. In the Recovery of Debts due to Banks and Financial Institutions Act, 1993,—

(*a*) after section 6, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Presiding Officer.

"6A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Presiding Officer of the Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Presiding Officer appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.";

(*b*) after section 15, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Chairperson.

"15A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the terms and conditions of service of the Chairperson of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

P.—AMENDMENT TO THE ELECTRICITY ACT, 2003

Amendment of Act 36 of 2003.

180. In the Electricity Act, 2003, after section 47, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Chairperson and Member.

"117A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

Q.—AMENDMENT TO THE ARMED FORCES TRIBUNAL ACT, 2007

Amendment of Act 55 of 2007.

181. In the Armed Force Tribunal Act, 2007, after section 9, the following section shall be inserted, namely: —

Qualifications, terms and conditions of service of Chairperson and Member.

"9A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

R.—AMENDMENT TO THE NATIONAL GREEN TRIBUNAL ACT, 2010

Amendment of Act 19 of 2010.

182. In the National Green Tribunal Act, 2010, after section 10, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Chairperson, Judicial Member and Expert Member.

"10A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the Chairperson, Judicial Member and Expert Member of the Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson, Judicial Member and Expert Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

S.—CONDITIONS OF SERVICE OF CHAIRPERSON AND MEMBERS OF TRIBUNALS, APPELLATE TRIBUNALS AND OTHER AUTHORITIES

Application of section 184.

183. Notwithstanding anything to the contrary contained in the provisions of the Acts specified in column (3) of the Eighth Schedule, on and from the appointed day, provisions of section 184 shall apply to the Chairperson, Vice-Chairperson, Chairman, Vice- Chairman, President, Vice-President, Presiding Officer or Member of the Tribunal, Appellate Tribunal or, as the case may be, other Authorities as specified in column (2) of the said Schedule:

Provided that the provisions of section 184 shall not apply to the Chairperson, Vice-Chairperson, Chairman, Vice-Chairman, President, Vice-President, Presiding Officer or, as the case may be, Member holding such office as such immediately before the appointed day.

Qualifications, appointment, term and conditions of service, salary and allowances, etc., of Chairperson, Vice-Chairperson and Members, etc., of the Tribunal, Appellate Tribunal and other Authorities.

184. (*1*) The Central Government may, by notification, make rules to provide for qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairperson, Vice-Chairperson, Chairman, Vice-Chairman, President, Vice-President, Presiding Officer or Member of the Tribunal, Appellate Tribunal or, as the case may be, other Authorities as specified in column (2) of the Eighth Schedule:

Provided that the Chairperson, Vice-Chairperson, Chairman, Vice-Chairman, President, Vice-President, Presiding Officer or Member of the Tribunal, Appellate Tribunal or other Authority shall hold office for such term as specified in the rules made by the Central Government but not exceeding five years from the date on which he enters upon his office and shall be eligible for reappointment:

Provided further that no Chairperson, Vice-Chairperson, Chairman, Vice-Chairman, President, Vice-President, Presiding Officer or Member shall hold office as such after he has attained such age as specified in the rules made by the Central Government which shall not exceed,—

(*a*) in the case of Chairperson, Chairman or President, the age of seventy years;

(*b*) in the case of Vice-Chairperson, Vice-Chairman, Vice-President, Presiding Officer or any other Member, the age of sixty-seven years:

(*2*) Neither the salary and allowances nor the other terms and conditions of service of Chairperson, Vice-Chairperson, Chairman, Vice-Chairman, President, Vice-President, Presiding Officer or Member of the Tribunal, Appellate Tribunal or, as the case may be, other Authority may be varied to his disadvantage after his appointment.

T.—MISCELLANEOUS

Transitional provisions.

185. (*1*) Any person appointed as the Chairperson or Chairman, President or Vice-Chairperson or Vice-Chairman, Vice-President or Presiding Officer or Member of the Tribunals, Appellate Tribunals, or as the case may be, other Authorities specified in column (2) of the Ninth Schedule and holding office as such immediately before the appointed day, shall on and from the appointed day, cease to hold such office and such Chairperson or Chairman, President, Vice-Chairperson or Vice-Chairman, Vice-President or Presiding officer or Member shall be entitled to claim compensation not exceeding three months' pay and allowances for the premature termination of term of their office or of any contract of service.

(*2*) The officers and other employees of the Tribunals, Appellate Tribunals and other Authorities specified in column (2) of the Ninth Schedule appointed on deputation, before the appointed day, shall, on and from the appointed day, stand reverted to their parent cadre, Ministry or Department.

(*3*) Every officer or other employee of the Tribunal, Appellate Tribunal and other Authorities specified in column (2) of the Ninth Schedule employed on regular basis, by such Tribunal, Appellate Tribunal or other Authorities shall become, on and from the appointed day, the officer and other employee, of the corresponding Tribunal, Appellate Tribunal or other Authorities specified in column (3) of the said Schedule with same rights and privileges as to pension, gratuity and other like benefits as would have been admissible to him if he had continued to serve the Tribunal, Appellate Tribunal or other Authorities specified in column (2) of the said Schedule until his employment is duly terminated or until his remuneration, terms and conditions of employment are duly altered by such corresponding Tribunal, Appellate Tribunal or other Authorities, as the case may be, specified in column (3) of the Ninth Schedule or until the expiry of a period of one year from the appointed day if such officer or other employee opts not to continue to be the officer or other employee of such Tribunal, Appellate Tribunal or other Authorities within such period.

(*4*) Any appeal, application or proceeding pending before the Tribunal, Appellate Tribunal or other Authorities specified in column (2) of the Ninth Schedule, before the appointed day, shall stand transferred to the corresponding Tribunal, Appellate Tribunal or

other Authorities specified in column (3) of the said Schedule and the said Tribunal, Appellate Tribunal or other Authority shall, on and from the appointed day, deal with *de novo* or from the stage at which such appeal, application or proceeding stood before the date of their transfer and shall dispose them in accordance with the provisions of the Act specified in column (2) of the said Schedule.

(*5*) The balance of all monies received by, or advanced to the Tribunal, Appellate Tribunal or other Authorities specified in column (2) of the Ninth Schedule and not spent by it before the appointed day, shall, on and from the appointed day, stand transferred to an vest in the Central Government which shall be utilised for the purposes stated in sub-section (*7*).

(*6*) All property of whatever kind owned by, or vested in, the Tribunal, Appellate Tribunal or other Authorities specified in column (2) of the Ninth Schedule before the appointed day, shall stand transferred to, on and from the appointed day, and shall vest in the Central Government.

(*7*) All liabilities and obligations of whatever kind incurred by the Tribunal, Appellate Tribunal or other Authorities specified in column (2) of the Ninth Schedule and subsisting immediately before the appointed day, shall, on and from the appointed day, be deemed to be the liabilities or obligations, as the case may be, of the corresponding Tribunal, Appellate Tribunal or other Authorities specified in column (3) of the Ninth Schedule; and any proceeding or cause of action, pending or existing immediately before the appointed day by or against the Tribunal, Appellate Tribunal or other Authorities specified in column (2) of the Ninth Schedule in relation to such liability or obligation may, on and from the appointed day, be continued or enforced by or against the corresponding Tribunal, Appellate Tribunal or other Authority specified in column (3) of the Ninth Schedule.

General Power to make rules.

186. Without prejudice to any other power to make rules contained elsewhere in this Part, the Central Government may, by notification, make rules generally to carry out the provisions of this Part.

Power to amend Eighth Schedule.

187. (*1*) If the Central Government is satisfied that it is necessary or expedient so to do, it may by notification published in the Official Gazette, amend the Eighth Schedule and thereupon the said Schedule shall be deemed to have been amended accordingly.

(*2*) A copy of every notification issued under sub-section (*1*) shall be laid before each House of Parliament as soon as may be after it is issued.

Rules to be laid before Parliament.

188. Every rule made under this Part shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Removal of difficulties.

189. (*1*) If any difficulty arises in giving effect to the provisions of this Part, the Central Government, may by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Part as appear to it to be necessary or expedient for removing the difficulty.

(*2*) No order under sub-section (*1*) shall be made after the expiry of three years from the appointed day.

(*3*) Every order made under this section shall, as soon as may be after it is made, be laid before each Houses of Parliament.'.

THE FIRST SCHEDULE

(*See* section 2)

PART I

INCOME-TAX

Paragraph A

(*I*) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

(*1*) where the total income does not exceed Rs. 2,50,000	*Nil;*
(*2*) where the total income exceeds Rs. 2,50,000 but does not exceed Rs. 5,00,000	10 per cent. of the amount by which the total income exceeds Rs. 2,50,000;
(*3*) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	Rs. 25,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(*4*) where the total income exceeds Rs. 10,00,000	Rs. 1,25,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000.

(*II*) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year,—

Rates of income-tax

(*1*) where the total income does not exceed Rs. 3,00,000	*Nil;*
(*2*) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000	10 per cent. of the amount by which the total income exceeds Rs. 3,00,000;
(*3*) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	Rs. 20,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(*4*) where the total income exceeds Rs. 10,00,000	Rs. 1,20,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000.

(*III*) In the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year,—

Rates of income-tax

(*1*) where the total income does not exceed Rs. 5,00,000	*Nil;*
(*2*) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(*3*) where the total income exceeds Rs. 10,00,000	Rs. 1,00,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, having a total income exceeding one crore rupees, be increased by a surcharge for the purpose of the Union calculated at the rate of fifteen per cent. of such income-tax:

Provided that in the case of persons mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

(*1*) where the total income does not exceed Rs.10,000	10 per cent. of the total income;
(*2*) where the total income exceeds Rs.10,000 but does not exceed Rs. 20,000	Rs.1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs.10,000;
(*3*) where the total income exceeds Rs. 20,000	Rs. 3,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every co-operative society, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of every co-operative society mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income	30 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every firm, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of every firm mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income	30 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every local authority, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of every local authority mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company,—

(i) where its total turnover or the gross receipt in the previous year 2014-15 does not exceed five crore rupees; — 29 per cent. of the total Income

(ii) other than that referred to in item (i) — 30 per cent. of the total Income

II. In the case of a company other than a domestic company,—

(*i*) on so much of the total income as consists of,—

(*a*) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(*b*) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government — 50 per cent.;

(*ii*) on the balance, if any, of the total income — 40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, be increased by a surcharge for the purposes of the Union calculated,—

(*i*) in the case of every domestic company,—

(*a*) having a total income exceeding one crore rupees but not exceeding ten crore rupees, at the rate of seven per cent. of such income-tax; and

(*b*) having a total income exceeding ten crore rupees, at the rate of twelve per cent. of such income-tax;

(*ii*) in the case of every company other than a domestic company,—

(*a*) having a total income exceeding one crore rupees but not exceeding ten crore rupees, at the rate of two per cent. of such income-tax; and

(*b*) having a total income exceeding ten crore rupees, at the rate of five per cent. of such income-tax:

Provided that in the case of every company having a total income exceeding one crore rupees but not exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided further that in the case of every company having a total income exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

PART II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D , 194LBA, 194LBB, 194LBC and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

Rate of income-tax

1. In the case of a person other than a company—

(*a*) where the person is resident in India—

(*i*) on income by way of interest other than "Interest on securities" — 10 per cent.;

	Rate of income-tax
(*ii*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(*iii*) on income by way of winnings from horse races	30 per cent.;
(*iv*) on income by way of insurance commission	5 per cent.;
(*v*) on income by way of interest payable on—	10 per cent.;
(*A*) any debentures or securities for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(*B*) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder;	
(*C*) any security of the Central or State Government;	
(*vi*) on any other income	10 per cent.;
(*b*) where the person is not resident in India—	
(*i*) in the case of a non-resident Indian—	
(*A*) on any investment income	20 per cent.;
(*B*) on income by way of long-term capital gains referred to in section 115E or sub-clause (*iii*) of clause (*c*) of sub-section (*1*) of section 112	10 per cent.;
(*C*) on income by way of short-term capital gains referred to in section 111A	15 per cent.;
(*D*) on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (*33*), (*36*) and (*38*) of section 10]	20 per cent.;
(*E*) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC)	20 per cent.;
(*F*) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to a person resident in India	10 per cent.;
(*G*) on income by way of royalty [not being royalty of the nature referred to in sub-item (*b*)(*i*)(*F*)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved	10 per cent.;

	Rate of income-tax
by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy	
(*H*) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy	10 per cent.;
(*I*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(*J*) on income by way of winnings from horse races	30 per cent.;
(*K*) on the whole of the other income	30 per cent.;
(*ii*) in the case of any other person—	
(*A*) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC)	20 per cent.;
(*B*) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to a person resident in India	10 per cent.;
(*C*) on income by way of royalty [not being royalty of the nature referred to in sub-item (*b*)(*ii*)(*B*)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy	10 per cent.;
(*D*) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy	10 per cent.;

	Rate of income-tax
(*E*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(*F*) on income by way of winnings from horse races	30 per cent.;
(*G*) on income by way of short-term capital gains referred to in section 111A	15 per cent.;
(*H*) on income by way of long-term capital gains referred to in sub-clause (*iii*) of clause (*c*) of sub-section (*1*) of section 112	10 per cent.;
(*I*) on income by way of other long-term capital gains [not being long-term capital gains referred to in clauses (*33*), (*36*) and (*38*) of section 10]	20 per cent.;
(*J*) on the whole of the other income	30 per cent.;
2. In the case of a company—	
(*a*) where the company is a domestic company—	
(*i*) on income by way of interest other than "Interest on securities"	10 per cent.;
(*ii*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(*iii*) on income by way of winnings from horse races	30 per cent.;
(*iv*) on any other income	10 per cent.;
(*b*) where the company is not a domestic company—	
(*i*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(*ii*) on income by way of winnings from horse races	30 per cent.;
(*iii*) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC)	20 per cent.;
(*iv*) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976 where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to a person resident in India	10 per cent.;
(*v*) on income by way of royalty [not being royalty of the nature referred to in sub-item (*b*)(*iv*)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	

	Rate of income-tax
(*A*) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent.;
(*B*) where the agreement is made after the 31st day of March, 1976	10 per cent.;
(*vi*) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(*A*) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976	50 per cent.;
(*B*) where the agreement is made after the 31st day of March, 1976	10 per cent.;
(*vii*) on income by way of short-term capital gains referred to in section 111A	15 per cent.;
(*viii*) on income by way of long-term capital gains referred to in sub-clause (*iii*) of clause (*c*) of sub-section (*1*) of section 112	10 per cent.;
(*ix*) on income by way of other long-term capital gains [not being long-term capital gains referred to in clauses (*33*), (*36*) and (*38*) of section 10]	20 per cent.;
(*x*) on any other income	40 per cent.

Explanation.— For the purposes of item 1(*b*)(*i*) of this Part, "investment income" and "non-resident Indian" shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of—

(*i*) item 1 of this Part, shall be increased by a surcharge, for the purposes of the Union,—

(*a*) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, being a non-resident, calculated,—

I. at the rate of ten per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds fifty lakh rupees but does not exceed one crore rupees;

II. at the rate of fifteen per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees; and

(*b*) in the case of every co-operative society or firm, being a non-resident, calculated at the rate of twelve per cent., where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(*ii*) Item 2 of this Part shall be increased by a surcharge, for the purposes of the Union, in the case of every company other than a domestic company, calculated,—

(*a*) at the rate of two per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed ten crore rupees; and

(*b*) at the rate of five per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten crore rupees.

PART III

RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD "SALARIES" AND COMPUTING "ADVANCE TAX"

In cases in which income-tax has to be charged under sub-section (*4*) of section 172 of the Income-tax Act or sub-section (*2*) of section 174 or section 174A or section 175 or sub-section (*2*) of section 176 of the said Act or deducted from, or paid on, from income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or income chargeable to tax under section 115JB or section 115JC or Chapter XII-FA or Chapter XII-FB or sub-section (*1A*) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge, wherever applicable, on such "advance tax" in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BA or section 115BB or section 115BBA or section 115BBC or section 115BBD or section 115BBDA or section 115BBE or section 115BBF or section 115BBG or section 115E or section 115JB or section 115JC] shall be charged, deducted or computed at the following rate or rates:—

Paragraph A

(*I*) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

(*1*) where the total income does not exceed Rs. 2,50,000	*Nil*;
(*2*) where the total income exceeds Rs. 2,50,000 but does not exceed Rs. 5,00,000	5 per c ent. of the amount by which the total income exceeds Rs. 2,50,000;
(*3*) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	Rs. 12,500 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(*4*) where the total income exceeds Rs. 10,00,000	Rs. 1,12,500 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000.

(*II*) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year,—

Rates of income-tax

(*1*) where the total income does not exceed Rs. 3,00,000	*Nil*;
(*2*) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000	5 per cent. of the amount by which the total income exceeds Rs. 3,00,000;
(*3*) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	Rs. 10,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(*4*) where the total income exceeds Rs. 10,00,000	Rs. 1,10,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000.

(*III*) In the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year,—

Rates of income-tax

(*1*) where the total income does not exceed Rs. 5,00,000	*Nil;*
(*2*) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(*3*) where the total income exceeds Rs. 10,00,000	Rs. 1,00,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall be increased by a surcharge for the purposes of the Union, calculated, in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act,—

(*a*) having a total income exceeding fifty lakh rupees but not exceeding one crore rupees, at the rate of ten per cent. of such income-tax; and

(*b*) having a total income exceeding one crore rupees, at the rate of fifteen per cent. of such income-tax:

Provided that in the case of persons mentioned above having total income exceeding,—

(*a*) fifty lakh rupees but not exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of fifty lakh rupees by more than the amount of income that exceeds fifty lakh rupees;

(*b*) one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax and surcharge on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

(*1*) where the total income does not exceed Rs. 10,000	10 per cent. of the total income;
(*2*) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000	Rs. 1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 10,000;
(*3*) where the total income exceeds Rs. 20,000	Rs. 3,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every co-operative society, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of every co-operative society mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income	30 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every firm, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of every firm mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.;

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every local authority, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of every local authority mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company,—

(*i*) where its total turnover or the gross receipt in the previous year 2015-16 does not exceed fifty crore rupees; 25 per cent. of the total income.;

(*ii*) other than that referred to in item (*i*) 30 per cent. of the total income.;

II. In the case of a company other than a domestic company—

(*i*) on so much of the total income as consists of,—

(*a*) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(*b*) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government 50 per cent.;

(*ii*) on the balance, if any, of the total income 40 per cent.;

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, be increased by a surcharge for the purposes of the Union, calculated,—

(*i*) in the case of every domestic company,—

(*a*) having a total income exceeding one crore rupees but not exceeding ten crore rupees, at the rate of seven per cent. of such income-tax; and

(*b*) having a total income exceeding ten crore rupees, at the rate of twelve per cent. of such income-tax;

(*ii*) in the case of every company other than a domestic company,—

(*a*) having a total income exceeding one crore rupees but not exceeding ten crore rupees, at the rate of two per cent. of such income-tax; and

(*b*) having a total income exceeding ten crore rupees, at the rate of five per cent. of such income-tax:

Provided that in the case of every company having a total income exceeding one crore rupees but not exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided further that in the case of every company having a total income exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

PART IV

[See section 2 (*13*)(*c*)*]*

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (*a*) of clause (*1A*) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (*2*) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (*3*), (*3A*) and (*4*) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (*b*) or sub-clause (*c*) of clause (*1A*) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (*3*), (*3A*) and (*4*) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (*c*) of clause (*1A*) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case—

(*a*) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee;

(*b*) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, re-milled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the Income-tax Rules, 1962, and sixty-five per cent. of such income shall be regarded as the agricultural income of the assessee;

(*c*) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent. or seventy-five per cent., as the case may be, of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8.—(*1*) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2017, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016, is a loss, then, for the purposes of sub-section (*2*) of section 2 of this Act,—

(*i*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2009, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016,

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2010, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016,

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2011, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016,

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2012, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016,

(*v*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2013, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016,

(*vi*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2014, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2015 or the 1st day of April, 2016,

(*vii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2015, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2016,

(*viii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2016,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2017.

(*2*) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2018, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing

on the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016 or the 1st day of April, 2017, is a loss, then, for the purposes of sub-section (*10*) of section 2 of this Act,—

(*i*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2010, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016 or the 1st day of April, 2017,

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2011, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016 or the 1st day of April, 2017,

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2012, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016 or the 1st day of April, 2017,

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2013, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016 or the 1st day of April, 2017,

(*v*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2014, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2015 or the 1st day of April, 2016 or the 1st day of April, 2017,

(*vi*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2015, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2016 or the 1st day of April, 2017,

(*vii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2016, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2017,

(*viii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2017,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2018.

(*3*) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (*1*) or sub-rule (*2*) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (*1*) or, as the case may be, sub-rule (*2*).

(*4*) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in the First Schedule to the Finance (No. 2) Act, 2009 (33 of 2009) or the First Schedule to the Finance Act, 2010 (14 of 2010) or the First Schedule to the Finance Act, 2011 (8 of 2011) or the First Schedule to the Finance Act, 2012 (23 of 2012) or the First Schedule to the Finance Act, 2013 (17 of 2013) or the First Schedule to the Finance (No. 2) Act, 2014 (25 of 2014) or the First Schedule to the Finance Act, 2015 (20 of 2015) or the First Schedule to the Finance Act, 2016 (28 of 2016) shall be set off under sub-rule (*1*) or, as the case may be, sub-rule (*2*).

Rule 9.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil.*

Rule 10.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 11.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

THE SECOND SCHEDULE

[*See* section 110 (*a*)]

In the First Schedule to the Customs Tariff Act,—

(*a*) in Chapter 20, for the entry in column (4) occurring against tariff item 2008 19 10, the entry "45%" shall be substituted;

(*b*) in Chapter 84, for the entry in column (4) occurring against tariff item 8421 99 00, the entry "10%" shall be substituted.

THE THIRD SCHEDULE

[*See* section 110(*b*)]

In the First Schedule to the Customs Tariff Act,—

Tariff item	Description of goods	Unit	Rate of Duty Standard	Preferential
(1)	(2)	(3)	(4)	(5)
(1) in Chapter 11, for tariff item 1106 10 00 and the entries relating thereto, the following shall be substituted, namely:—				
"1106 10	- Of the dried leguminous vegetables of heading 0713			
1106 10 10	--- Guar Meal	kg.	30%	-
1106 10 90	--- Others	kg.	30%	-";
(2) in Chapter 13, tariff items 1302 32 10 and 1302 32 20 and the entries relating thereto shall be omitted;				
(3) in Chapter 15, after tariff item 1511 90 20 and the entries relating thereto, the following tariff item and entries shall be inserted, namely:—				
"1511 90 30	— Refined bleached deodorised palm stearin	kg.	100%	90%";
(4) in Chapter 38,—				
(*a*) in heading 3823, for sub-heading 3823 11 and tariff items 3823 11 11 to 3823 11 90 and the entries relating thereto, the following shall be substituted, namely:—				
"3823 11 00	— Stearic acid	kg.	30%	-";
(*b*) in heading 3824, against tariff item 3824 88 00, in column (2), for the words "hexa-hepta-", the words "hexa-, hepta-" shall be substituted;				
(5) in Chapter 39, in heading 3904, for sub-heading 3904 00 and tariff items 3904 10 10 and 3904 10 90, sub-heading 3904 21, tariff items 3904 21 10 and 3904 21 90 and sub-heading 3904 22, tariff items 3904 22 10 and 3904 22 90 and the entries relating thereto, the following shall be substituted, namely:—				
"3904 10	***- Poly (vinyl chloride), not mixed with any other substances:***			
3904 10 10	--- Emulsion grade PVC resin / PVC Paste resin/ PVC dispersion resin	kg.	10%	-
3904 10 20	--- Suspension grade PVC resin	kg.	10%	-
3904 10 90	--- Other	kg.	10%	-
	- Other poly (vinyl chloride), mixed with other substances:			
3904 21 00	— Non-plasticised	kg.	10%	-
3904 22 00	— Plasticised	kg.	10%	-";
(6) in Chapter 44, against tariff item 4401 22 00, in column (2), for the words "agglomerated, in logs", the words "agglomerated in logs" shall be substituted;				
(7) in Chapter 48, in Note 4, for the word "apply", the word "applies" shall be substituted;				
(8) in Chapter 54, tariff items 5402 59 10 and 5402 69 30 and the entries relating thereto shall be omitted;				

(9) in Chapter 63, in sub-heading Note, for the words "from fabrics", the words "from warp knit fabrics" shall be substituted;

(10) in Chapter 98,—

(*i*) in Chapter Note 4, for clauses (*b*) and (*c*), the following clauses shall be substituted, namely:—

"(*b*) alcoholic beverages; and

(*c*) tobacco and manufactured products thereof.";

(*ii*) for the entry in column (2) occurring against heading 9804, the entry "All dutiable goods imported for personal use" shall be substituted.

THE FOURTH SCHEDULE

(*See* section 111)

In the Second Schedule to the Customs Tariff Act, after Sl. No. 23B and the entries relating thereto, the following Sl. No. and entries shall be inserted, namely:—

(1)	(2)	(3)	(4)
"23C	2606 00 90	Other aluminium ores and concentrates	30%".

THE FIFTH SCHEDULE

(*See* section 119)

In the First Schedule to the Central Excise Tariff Act, in Chapter 24,—

(*a*) for the entry in column (4) occurring against tariff items 2402 10 10 and 2402 10 20, the entry "12.5% or Rs.4006 per thousand, whichever is higher" shall be substituted;

(*b*) for the entry in column (4) occurring against tariff item 2402 90 10, the entry "Rs.4006 per thousand" shall be substituted;

(*c*) for the entry in column (4) occurring against tariff items 2402 90 20 and 2402 90 90, the entry "12.5% or Rs.4006 per thousand, whichever is higher" shall be substituted.

THE SIXTH SCHEDULE

(*See* section 129)

Sl. No.	Provisions of the Service Tax (Determination of Value) Rules, 2006 to be amended	Amendment	Period of effect of amendment
(1)	(2)	(3)	(4)
1.	Rule 2A as inserted by notification number G.S.R. 375*(E)*, dated the 22nd May, 2007 [29/2007– Service Tax, dated the 22nd May, 2007].	In the Service Tax (Determination of Value) Rules, 2006, in rule 2A,—	
		(I) in sub-rule (*1*), in clause (*i*), after the words "value of transfer of property in goods", the words "or in goods and land or undivided share of land, as the case may be," shall be inserted;	1st day of July, 2010 to 30th day of June, 2012 (both days inclusive).
		(II) after sub-rule (*1*), the following sub-rule shall be inserted, namely:—	1st day of July, 2010 to 30th day of June, 2012 (both days inclusive).
		"(*2*) Where the value has not been determined under sub-rule (*1*) and the gross amount charged includes the value of goods as well as land or undivided share of land, the service tax shall be payable on twenty-five per cent. of the gross amount charged for the works contract, subject to the following conditions, namely:—	
		(*i*) the CENVAT Credit of duty paid on inputs or capital goods or the CENVAT Credit of service tax on input services, used for providing such taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004;	
		(*ii*) the service provider has not availed the benefit under the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 12/ 2003-Service Tax, dated the 20th June, 2003 [G.S.R. 503(*E*), dated the 20th June, 2003].	
		Explanation.—For the purposes of this sub-rule, the gross amount charged shall include the value of goods and materials supplied or provided or used for providing the taxable service by the service provider.".	

(1)	(2)	(3)	(4)
2.	Rule 2A as substituted by notification number G.S.R. 431*(E)*, dated the 6th June, 2012. [24/2012– Service Tax, dated the 6th June, 2012].	In the Service Tax (Determination of Value) Rules, 2006, in rule 2A,—	
		(I) in clause (*i*), after the words "value of property in goods", the words "or in goods and land or undivided share of land, as the case may be," shall be inserted;	1st day of July, 2012 onwards.
		(II) in clause (*ii*), in sub-clause (*A*),—	1st day of July, 2012 to 28th day of February, 2013 (both days inclusive).
		(*a*) the following proviso shall be inserted, namely:—	
		"Provided that where the amount charged for works contract includes the value of goods as well as land or undivided share of land, the service tax shall be payable on twenty-five per cent. of the total amount charged for the works contract.";	
		(*b*) for the proviso, the following provisos shall be substituted, namely:—	1st day of March, 2013 to 7th day of May, 2013 (both days inclusive).
		"Provided that where the amount charged for works contract includes the value of goods as well as land or undivided share of land, the service tax shall be payable on thirty per cent. of the total amount charged for the works contract:	
		Provided further that in case of works contract for construction of residential units having carpet area up to 2000 square feet or where the amount charged per residential unit from service recipient is less than rupees one crore and the amount charged for the works contract includes the value of goods as well as land or undivided share of land, the service tax shall be payable on twenty-five per cent. of the total amount charged for the works contract.";	
		(*c*) for the provisos, the following provisos shall be substituted, namely:—	8th day of May, 2013 to 31st day of March, 2016 (both days inclusive).
		"Provided that where the amount charged for works contract includes the value of goods as well as land or undivided share of land, the service tax shall be payable on	

(1)	(2)	(3)	(4)
		thirty per cent. of the total amount charged for the works contract: Provided further that in case of works contract for construction of residential units having carpet area up to 2000 square feet and where the amount charged per residential unit from service recipient is less than rupees one crore and the amount charged for the works contract includes the value of goods as well as land or undivided share of land, the service tax shall be payable on twenty-five per cent. of the total amount charged for the works contract.”;	
		(*d*) for the provisos, the following proviso shall be substituted, namely:— “Provided that where the amount charged for works contract includes the value of goods as well as land or undivided share of land, the service tax shall be payable on thirty per cent. of the total amount charged for the works contract.”.	1st day of April, 2016 onwards.

THE SEVENTH SCHEDULE

(*See* section 150)

In the Seventh Schedule to the Finance Act, 2005,—

(*a*) for the entry in column (4) occurring against tariff item 2402 20 10, the entry "Rs. 311 per thousand" shall be substituted;

(*b*) for the entry in column (4) occurring against tariff item 2402 20 20, the entry "Rs. 541 per thousand" shall be substituted;

(*c*) for the entry in column (4) occurring against tariff item 2402 20 30, the entry "Rs. 311 per thousand" shall be substituted;

(*d*) for the entry in column (4) occurring against tariff item 2402 20 40, the entry "Rs. 386 per thousand" shall be substituted;

(*e*) for the entry in column (4) occurring against tariff item 2402 20 50, the entry "Rs. 541 per thousand" shall be substituted;

(*f*) for the entry in column (4) occurring against tariff item 2402 20 90, the entry "Rs. 811 per thousand" shall be substituted;

(*g*) for the entry in column (4) occurring against tariff items 2403 99 10, 2403 99 30 and 2403 99 90, the entry "12%" shall be substituted.

THE EIGHTH SCHEDULE

[*See* sections 183 and 184]

S.No.	Tribunal/Appellate Tribunal/Board/Authority	Acts
(1)	(2)	(3)
1.	Industrial Tribunal constituted by the Central Government.	The Industrial Disputes Act, 1947 (14 of 1947)
2.	Income-Tax Appellate Tribunal	The Income -Tax Act, 1961 (43 of 1961)
3.	Customs, Excise and Service Tax Appellate Tribunal	The Customs Act, 1962 (52 of 1962)
4.	Appellate Tribunal.	The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (13 of 1976)
5.	Central Administrative Tribunal	The Administrative Tribunals Act, 1985 (13 of 1985)
6.	Railway Claims Tribunal	The Railway Claims Tribunal Act, 1987 (54 of 1987)
7.	Securities Appellate Tribunal	The Securities and Exchange Board of India Act, 1992 (15 of 1992)
8.	Debts Recovery Tribunal	The Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993)
9.	Debts Recovery Appellate Tribunal	The Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993)
10.	Airport Appellate Tribunal	The Airport Authority of India Act, 1994 (55 of 1994)
11.	Telecom Disputes Settlement and Appellate Tribunal	The Telecom Regulatory Authority of India Act, 1997 (24 of 1997)
12.	Appellate Board	The Trade Marks Act, 1999 (47 of 1999)
13.	National Company Law Appellate Tribunal	The Companies Act, 2013 (18 of 2013)

(1)	(2)	(3)
14.	Authority for Advance Ruling	The Income Tax Act, 1961 (43 of 1961)
15.	Film Certification Appellate Tribunal	The Cinematograph Act, 1952 (37 of 1952)
16.	National Consumer Disputes Redressal Commission	The Consumer Protection Act, 1986 (68 of 1986)
17.	Appellate Tribunal for Electricity	The Electricity Act, 2003 (36 of 2003)
18	Armed Forces Tribunal	The Armed Forces Act, 2007 (55 of 2007)
19.	National Green Tribunal	The National Green Tribunal Act, 2010 (19 of 2010).

THE NINTH SCHEDULE

[*See* section 185]

Sl. No.	Tribunal/ Appellate Tribunal under the Acts	Tribunal/ Appellate Tribunal/ Authority to exercise the jurisdiction under the Acts.
(1)	(2)	(3)
1.	The Employees Provident Fund Appellate Tribunal under the Employees Provident Funds and Miscellaneous Provisions Act, 1952.	The Industrial Tribunal constituted by the Central Government under the Industrial Disputes Act, 1947.
2.	The Copyright Board under the Copyright Act, 1957.	The Intellectual Property Appellate Board under the Trade Marks Act, 1999.
3.	The Railway Rates Tribunal under the Railways Act, 1989.	The Railway Claims Tribunal under the Railway Claims Tribunal Act, 1987.
4.	The Appellate Tribunal for Foreign Exchange under the Foreign Exchange Management Act, 1999.	The Appellate Tribunal under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976.
5.	The National Highways Tribunal under the Control of National Highways (Land and Traffic) Act, 2002.	The Airport Appellate Tribunal under the Airport Authority of India Act, 1994.
6.	(A) The Cyber Appellate Tribunal under the Information Technology Act, 2000. (B) The Airports Economic Regulatory Authority Appellate Tribunal under the Airports Economic Regulatory Authority of India Act, 2008.	The Telecom Disputes Settlement and Appellate Tribunal under the Telecom Regulatory Authority of India Act, 1997.
7.	The Competition Appellate Tribunal under the Competition Act, 2002.	The National Company Law Appellate Tribunal under the Companies Act, 2013.".

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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CORRIGENDA

In the FINANCE ACT, 2017 (7 of 2017) as published in the Gazette of India, Extraordinary, Part II, Section I, Issue No. 7, dated the 31st March, 2017,—

Page No.	Col. No.	Line(s) No.	*Fir*	*Read*
64	-	2	"section 47"	"section 117"
64	-	14	"Armed Force"	"Armed Forces"
66	-	8	"an vest"	"and vest"
66	-	47	"each Houses"	"each House"
91	3	-	"The Armed Forces"	"The Armed Forces Tribunal"

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असाधारण
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PART II — Section 1
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No. 8] NEW DELHI, FRIDAY, MARCH 31, 2017/CHAITRA 10, 1939 (SAKA)

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 31*st March,* 2017/*Chaitra* 10, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 31st March, 2017, and is hereby published for general information:—

THE APPROPRIATION (RAILWAYS) ACT, 2017

NO. 8 OF 2017

[31*st March*, 2017.]

An Act to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services for the purposes of Railways during the financial year ended on the 31st day of March, 2014 in excess of the amounts granted for those services and for that year.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Appropriation (Railways) Act, 2017.

Issue of Rs. 2734,90,64,750 out of the Consolidated Fund of India to meet certain expenditure for the financial year ended on the 31st day of March, 2014.

2. From and out of the Consolidated Fund of India, the sums specified in column 3 of the Schedule amounting in the aggregate to the sum of two thousand seven hundred thirty-four crore, ninety lakh, sixty-four thousand, seven hundred and fifty rupees shall be deemed to have been authorised to be paid and applied to meet the amounts spent for defraying the charges in respect of the services relating to Railways specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 2014 in excess of the amounts granted for those services and for that year.

Appropriation.

3. The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 2014.

THE SCHEDULE

(*See* sections 2 and 3)

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
3	General Superintendence and Services on Railways	..	*38,47,888*	38,47,888
4	Repairs and Maintenance of Permanent Way and Works	..	*86,69,734*	86,69,734
5	Repairs and Maintenance of Motive Power	67,30,10,224	*4,76,961*	67,34,87,185
6	Repairs and Maintenance of Carriages and Wagons	97,88,53,706	*6,71,243*	97,95,24,949
7	Repairs and Maintenance of Plant and Equipment	..	*5,42,416*	5,42,416
8	Operating Expenses—Rolling Stock and Equipment	110,75,35,038	*39,96,570*	111,15,31,608
9	Operating Expenses—Traffic	..	*3,05,87,329*	3,05,87,329
10	Operating Expenses—Fuel	683,95,55,988	*17,53,83,182*	701,49,39,170
11	Staff Welfare and Amenities	..	*2,67,456*	2,67,456
13	Provident Fund, Pension and Other Retirement Benefits	732,76,13,946	*19,17,139*	732,95,31,085
15	Dividend to General Revenues, Repayment of loans taken from General Revenues and Amortisation of Over-Capitalisation	168,79,61,789	..	168,79,61,789
16	Assets—Acquisition, Construction and Replacement—			
	Capital	837,72,87,300	*12,16,02,752*	849,88,90,052
	Railway Funds	..	*92,84,089*	92,84,089
	TOTAL :	2699,18,17,991	*35,72,46,759*	2734,90,64,750

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 31*st March,* 2017/*Chaitra* 10, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 31st March, 2017, and is hereby published for general information:—

THE APPROPRIATION (RAILWAYS) No. 2 ACT, 2017

No. 9 OF 2017

[31*st March*, 2017.]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 2016-17 for the purposes of Railways.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Appropriation (Railways) No. 2 Act, 2017.

Issue of Rs. 4777,20,20,000 out of the Consolidated Fund of India for the financial year 2016-17.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of four thousand seven hundred seventy-seven crore, twenty lakh and twenty thousand rupees towards defraying the several charges which will come in course of payment during the financial year 2016-17 in respect of the services relating to Railways specified in column 2 of the Schedule.

Appropriation.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE

(*See* sections 2 and 3)

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
4	Repairs and Maintenance of Permanent Way and Works	..	*21,54,000*	21,54,000
7	Repairs and Maintenance of Plant and Equipment	..	*21,45,000*	21,45,000
10	Operating Expenses—Fuel	3050,00,00,000	..	3050,00,00,000
12	Miscellaneous Working Expenses	..	*11,80,26,000*	11,80,26,000
16	Assets—Acquisition, Construction and Replacement—			
	Other Expenditure			
	Capital	1519,45,25,000	*170,83,43,000*	1690,28,68,000
	Railway Funds	..	*7,59,55,000*	7,59,55,000
	Railway Safety Fund	..	*17,08,72,000*	17,08,72,000
	TOTAL:	4569,45,25,000	*207,74,95,000*	4777,20,20,000

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

CORRIGENDA

In the Insolvency and Bankruptcy Code, 2016 (No. 31 of 2016), as published in the Gazette of India, Extraordinary, Part II, Section 1, Issue No. 37, dated 28th May, 2016,—

Page No.	Line(s) No.	*For*	*Read*
29	Marginal Heading of Section 51	"extorionate"	"extorionate"
32	33	*omit*	"line 33"
35	19	*omit*	"Civil court not to have jurisdiction"
35	Marginal Heading of Section 65	"intiation"	"initiation"
38	20	"the"	"he"
40	28	"sub-section,"	"clause,"
49	29	"of the such"	"of such"
57	34	"sections 122 or 123"	"section 122 or section 123"
59	16	"in the such"	"in such"
96	41	"filling"	"filing"
100	12	"words and figures"	"words, figures and brackets"
100	19	"AMENDMENT"	"AMENDMENTS"
101	19	"words and figures"	"words, figures and brackets"
102	10	"words and figures"	"words, figures and brackets"
102	13	"words and figures"	"words, figures and brackets"
102	33	"words"	"words and figures"
102	34	"words"	"words and figures"
103	6	"6A."	"7."
103	7.	"words"	"words and figures"
103	10	"words"	"words and figures"
103	13	"7."	"8."
103	17	"8."	"9."
103	18	"9."	"10."
103	21	"10."	"10.'
105	6	"15A."	"16."
105	7	"16."	"17."
105	8	"17."	"18."
105	9	"18."	"19."
106	14	"19."	"20."
106	26	"20."	"21.'
106	33	"21."	"22."
106	38	"22."	"23."
106	42	"23."	"24."
106	44	"24."	"25."
106	45	"25."	"26."
107	16	"26."	"27."
107	20	"27."	"28."
107	33	"28."	"29."
107	37	"29."	"30."
107	38	"words"	"words and figures"
107	40	"30."	"31."
107	40	"words"	"words and figures"
107	42	"31."	"32."
107	48	"32."	"33."
108	1	"words"	"words and figures"
108	3	"words"	"words and figures"
108	5	"33."	"34."
108	19	"34."	"35."
109	1	"35."	"36."
109	21	"36."	"37."

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 7th April, 2017/*Chaitra* 17, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 7th April, 2017, and is hereby published for general information:—

THE MENTAL HEALTHCARE ACT, 2017

No. 10 OF 2017 [*7th April,* 2017.]

An Act to provide for mental healthcare and services for persons with mental illness and to protect, promote and fulfil the rights of such persons during delivery of mental healthcare and services and for matters connected therewith or incidental thereto.

WHEREAS the Convention on Rights of Persons with Disabilities and its Optional Protocol was adopted on the 13th December, 2006 at United Nations Headquarters in New York and came into force on the 3rd May, 2008;

AND WHEREAS India has signed and ratified the said Convention on the 1st day of October, 2007;

AND WHEREAS it is necessary to align and harmonise the existing laws with the said Convention.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Mental Healthcare Act, 2017. Short title, extent and commencement.

(*2*) It shall extend to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; or on the date of completion of the period of nine months from the date on which the Mental Healthcare Act, 2017 receives the assent of the President.

Definitions.

2. (*1*) In this Act, unless the context otherwise requires,—

(*a*) "advance directive" means an advance directive made by a person under section 5;

(*b*) "appropriate Government" means,—

(*i*) in relation to a mental health establishment established, owned or controlled by the Central Government or the Administrator of a Union territory having no legislature, the Central Government;

(*ii*) in relation to a mental health establishment, other than an establishment referred to in sub-clause (*i*), established, owned or controlled within the territory of—

(A) a State, the State Government;

(B) a Union territory having legislature, the Government of that Union territory;

(*c*) "Authority" means the Central Mental Health Authority or the State Mental Health Authority, as the case may be;

(*d*) "Board" means the Mental Health Review Board constituted by the State Authority under sub-section (*1*) of section 80 in such manner as may be prescribed;

(*e*) "care-giver" means a person who resides with a person with mental illness and is responsible for providing care to that person and includes a relative or any other person who performs this function, either free or with remuneration;

(*f*) "Central Authority" means the Central Mental Health Authority constituted under section 33;

(*g*) "clinical psychologist" means a person—

(*i*) having a recognised qualification in Clinical Psychology from an institution approved and recognised, by the Rehabilitation Council of India, constituted under section 3 of the Rehabilitation Council of India Act, 1992; or 34 of 1992.

(*ii*) having a Post-Graduate degree in Psychology or Clinical Psychology or Applied Psychology and a Master of Philosophy in Clinical Psychology or Medical and Social Psychology obtained after completion of a full time course of two years which includes supervised clinical training from any University recognised by the University Grants Commission established under the University Grants Commission Act, 1956 and approved and recognised by the Rehabilitation Council of India Act, 1992 or such recognised qualifications as may be prescribed; 3 of 1956. 34 of 1992.

(*h*) "family" means a group of persons related by blood, adoption or marriage;

(*i*) "informed consent" means consent given for a specific intervention, without any force, undue influence, fraud, threat, mistake or misrepresentation, and obtained after disclosing to a person adequate information including risks and benefits of, and alternatives to, the specific intervention in a language and manner understood by the person;

(*j*) "least restrictive alternative" or "least restrictive environment" or "less

restrictive option" means offering an option for treatment or a setting for treatment which—

(*i*) meets the person's treatment needs; and

(*ii*) imposes the least restriction on the person's rights;

(*k*) "local authority" means a Municipal Corporation or Municipal Council, or Zilla Parishad, or Nagar Panchayat, or Panchayat, by whatever name called, and includes such other authority or body having administrative control over the mental health establishment or empowered under any law for the time being in force, to function as a local authority in any city or town or village;

(*l*) "Magistrate" means—

(*i*) in relation to a metropolitan area within the meaning of clause (*k*) of section 2 of the Code of Criminal Procedure, 1973, a Metropolitan Magistrate;

2 of 1974.

(*ii*) in relation to any other area, the Chief Judicial Magistrate, Sub-divisional Judicial Magistrate or such other Judicial Magistrate of the first class as the State Government may, by notification, empower to perform the functions of a Magistrate under this Act;

(*m*) "medical officer in charge" in relation to any mental health establishment means the psychiatrist or medical practitioner who, for the time being, is in charge of that mental health establishment;

(*n*) "medical practitioner" means a person who possesses a recognised medical qualification—

(*i*) as defined in clause (*h*) of section 2 of the Indian Medical Council Act, 1956, and whose name has been entered in the State Medical Register, as defined in clause (*k*) of that section; or

102 of 1956.

(*ii*) as defined in clause (*h*) of sub-section (*1*) of section 2 of the Indian Medicine Central Council Act, 1970, and whose name has been entered in a State Register of Indian Medicine, as defined in clause (*j*) of sub-section (*1*) of that section; or

48 of 1970.

(*iii*) as defined in clause (*g*) of sub-section (*1*) of section 2 of the Homoeopathy Central Council Act, 1973, and whose name has been entered in a State Register of Homoeopathy, as defined in clause (*i*) of sub-section (*1*) of that section;

59 of 1973.

(*o*) "Mental healthcare" includes analysis and diagnosis of a person's mental condition and treatment as well as care and rehabilitation of such person for his mental illness or suspected mental illness;

(*p*) "mental health establishment" means any health establishment, including Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy establishment, by whatever name called, either wholly or partly, meant for the care of persons with mental illness, established, owned, controlled or maintained by the appropriate Government, local authority, trust, whether private or public, corporation, co-operative society, organisation or any other entity or person, where persons with mental illness are admitted and reside at, or kept in, for care, treatment, convalescence and rehabilitation, either temporarily or otherwise; and includes any general hospital or general nursing home established or maintained by the appropriate Government, local authority, trust, whether private or public, corporation, co-operative society, organisation or any other entity or person; but does not include a family residential place where a person with mental illness resides with his relatives or friends;

(*q*) "mental health nurse" means a person with a diploma or degree in general nursing or diploma or degree in psychiatric nursing recognised by the Nursing Council of India established under the Nursing Council of India Act, 1947 and registered as such with the relevant nursing council in the State; 38 of 1947.

(*r*) "mental health professional" means—

(*i*) a psychiatrist as defined in clause (*x*); or

(*ii*) a professional registered with the concerned State Authority under section 55; or

(*iii*) a professional having a post-graduate degree (Ayurveda) in Mano Vigyan Avum Manas Roga or a post-graduate degree (Homoeopathy) in Psychiatry or a post-graduate degree (Unani) in Moalijat (Nafasiyatt) or a post-graduate degree (Siddha) in Sirappu Maruthuvam;

(*s*) "mental illness" means a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life, mental conditions associated with the abuse of alcohol and drugs, but does not include mental retardation which is a condition of arrested or incomplete development of mind of a person, specially characterised by subnormality of intelligence;

(*t*) "minor" means a person who has not completed the age of eighteen years;

(*u*) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(*v*) "prescribed" means prescribed by rules made under this Act;

(*w*) "prisoner with mental illness" means a person with mental illness who is an under-trial or convicted of an offence and detained in a jail or prison;

(*x*) "psychiatric social worker" means a person having a post-graduate degree in Social Work and a Master of Philosophy in Psychiatric Social Work obtained after completion of a full time course of two years which includes supervised clinical training from any University recognised by the University Grants Commission established under the University Grants Commission Act, 1956 or such recognised qualifications, as may be prescribed; 3 of 1956.

(*y*) "psychiatrist" means a medical practitioner possessing a post-graduate degree or diploma in psychiatry awarded by an university recognised by the University Grants Commission established under the University Grants Commission Act, 1956**,** or awarded or recognised by the National Board of Examinations and included in the First Schedule to the Indian Medical Council Act, 1956**,** or recognised by the Medical Council of India, constituted under the Indian Medical Council Act, 1956**,** and includes, in relation to any State, any medical officer who having regard to his knowledge and experience in psychiatry, has been declared by the Government of that State to be a psychiatrist for the purposes of this Act; 3 of 1956. 102 of 1956.

(*z*) "regulations" means regulations made under this Act;

(*za*) "relative" means any person related to the person with mental illness by blood, marriage or adoption;

(*zb*) "State Authority" means the State Mental Health Authority established under section 45.

(*2*) The words and expressions used and not defined in this Act but defined in the Indian Medical Council Act, 1956 or the Indian Medicine Central Council Act, 1970 and not inconsistent with this Act shall have the meanings respectively assigned to them in those Acts. 102 of 1956. 48 of 1970.

CHAPTER II

MENTAL ILLNESS AND CAPACITY TO MAKE MENTAL HEALTHCARE AND TREATMENT DECISIONS

Determination of mental illness.

3. (*1*) Mental illness shall be determined in accordance with such nationally or internationally accepted medical standards (including the latest edition of the International Classification of Disease of the World Health Organisation) as may be notified by the Central Government.

(*2*) No person or authority shall classify a person as a person with mental illness, except for purposes directly relating to the treatment of the mental illness or in other matters as covered under this Act or any other law for the time being in force.

(*3*) Mental illness of a person shall not be determined on the basis of,—

(*a*) political, economic or social status or membership of a cultural, racial or religious group, or for any other reason not directly relevant to mental health status of the person;

(*b*) non-conformity with moral, social, cultural, work or political values or religious beliefs prevailing in a person's community.

(*4*) Past treatment or hospitalisation in a mental health establishment though relevant, shall not by itself justify any present or future determination of the person's mental illness.

(*5*) The determination of a person's mental illness shall alone not imply or be taken to mean that the person is of unsound mind unless he has been declared as such by a competent court.

Capacity to make mental healthcare and treatment decisions.

4. (*1*) Every person, including a person with mental illness shall be deemed to have capacity to make decisions regarding his mental healthcare or treatment if such person has ability to—

(*a*) understand the information that is relevant to take a decision on the treatment or admission or personal assistance; or

(*b*) appreciate any reasonably foreseeable consequence of a decision or lack of decision on the treatment or admission or personal assistance; or

(*c*) communicate the decision under sub-clause (*a*) by means of speech, expression, gesture or any other means.

(*2*) The information referred to in sub-section (*1*) shall be given to a person using simple language, which such person understands or in sign language or visual aids or any other means to enable him to understand the information.

(*3*) Where a person makes a decision regarding his mental healthcare or treatment which is perceived by others as inappropriate or wrong, that by itself, shall not mean that the person does not have the capacity to make mental healthcare or treatment decision, so long as the person has the capacity to make mental healthcare or treatment decision under sub-section (*1*).

CHAPTER III

ADVANCE DIRECTIVE

Advance directive.

5. (*1*) Every person, who is not a minor, shall have a right to make an advance directive in writing, specifying any or all of the following, namely:—

(*a*) the way the person wishes to be cared for and treated for a mental illness;

(*b*) the way the person wishes not to be cared for and treated for a mental illness;

(*c*) the individual or individuals, in order of precedence, he wants to appoint as his nominated representative as provided under section 14.

(*2*) An advance directive under sub-section (*1*) may be made by a person irrespective of his past mental illness or treatment for the same.

(*3*) An advance directive made under sub-section (*1*), shall be invoked only when such person ceases to have capacity to make mental healthcare or treatment decisions and shall remain effective until such person regains capacity to make mental healthcare or treatment decisions.

(*4*) Any decision made by a person while he has the capacity to make mental healthcare and treatment decisions shall over-ride any previously written advance directive by such person.

(*5*) Any advance directive made contrary to any law for the time being in force shall be *ab initio* void.

Manner of making advance directive.

6. An advance directive shall be made in the manner as may be specified by the regulations made by the Central Authority.

Maintenance of online register.

7. Subject to the provisions contained in clause *(a)* of sub-section (*1*) of section 91**,** every Board shall maintain an online register of all advance directives registered with it and make them available to the concerned mental health professionals as and when required.

Revocation, amendment or cancellation of advance directive.

8. (*1*) An advance directive made under section 6 may be revoked, amended or cancelled by the person who made it at any time.

(*2*) The procedure for revoking, amending or cancelling an advance directive shall be the same as for making an advance directive under section 6.

Advance directive not to apply to emergency treatment.

9. The advance directive shall not apply to the emergency treatment given under section 103 to a person who made the advance directive.

Duty to follow advance directive.

10. It shall be the duty of every medical officer in charge of a mental health establishment and the psychiatrist in charge of a person's treatment to propose or give treatment to a person with mental illness, in accordance with his valid advance directive, subject to section 11.

Power to review, alter, modify or cancel advance directive.

11. (*1*) Where a mental health professional or a relative or a care-giver of a person desires not to follow an advance directive while treating a person with mental illness, such mental health professional or the relative or the care-giver of the person shall make an application to the concerned Board to review, alter, modify or cancel the advance directive.

(*2*) Upon receipt of the application under sub-section (*1*), the Board shall, after giving an opportunity of hearing to all concerned parties (including the person whose advance directive is in question), either uphold, modify, alter or cancel the advance directive after taking into consideration the following, namely:—

(*a*) whether the advance directive was made by the person out of his own free will and free from force, undue influence or coercion; or

(*b*) whether the person intended the advance directive to apply to the present circumstances, which may be different from those anticipated; or

(*c*) whether the person was sufficiently well informed to make the decision; or

(*d*) whether the person had capacity to make decisions relating to his mental healthcare or treatment when such advanced directive was made; or

(*e*) whether the content of the advance directive is contrary to other laws or constitutional provisions.

(*3*) The person writing the advance directive and his nominated representative shall have a duty to ensure that the medical officer in charge of a mental health establishment or a medical practitioner or a mental health professional, as the case may be, has access to the advance directive when required.

(*4*) The legal guardian shall have right to make an advance directive in writing in respect of a minor and all the provisions relating to advance directive, *mutatis mutandis*, shall apply to such minor till such time he attains majority.

Review of advance directives.

12. (*1*) The Central Authority shall regularly and periodically review the use of advance directives and make recommendations in respect thereof.

(*2*) The Central Authority in its review under sub-section (*1*) shall give specific consideration to the procedure for making an advance directive and also examine whether the existing procedure protects the rights of persons with mental illness.

(*3*) The Central Authority may modify the procedure for making an advance directive or make additional regulations regarding the procedure for advance directive to protect the rights of persons with mental illness.

Liability of medical health professional in relation to advance directive.

13. (*1*) A medical practitioner or a mental health professional shall not be held liable for any unforeseen consequences on following a valid advance directive.

(*2*) The medical practitioner or mental health professional shall not be held liable for not following a valid advance directive, if he has not been given a copy of the valid advance directive.

CHAPTER IV

NOMINATED REPRESENTATIVE

Appointment and revocation of nominated representative.

14. (*1*) Notwithstanding anything contained in clause (*c*) of sub-section (*1*) of section 5, every person who is not a minor, shall have a right to appoint a nominated representative.

(*2*) The nomination under sub-section (*1*) shall be made in writing on plain paper with the person's signature or thumb impression of the person referred to in that sub-section.

(*3*) The person appointed as the nominated representative shall not be a minor, be competent to discharge the duties or perform the functions assigned to him under this Act, and give his consent in writing to the mental health professional to discharge his duties and perform the functions assigned to him under this Act.

(*4*) Where no nominated representative is appointed by a person under sub-section (*1*), the following persons for the purposes of this Act in the order of precedence shall be deemed to be the nominated representative of a person with mental illness, namely:—

(*a*) the individual appointed as the nominated representative in the advance directive under clause (*c*) of sub-section (*1*) of section 5**;** or

(*b*) a relative, or if not available or not willing to be the nominated representative of such person; or

(*c*) a care-giver, or if not available or not willing to be the nominated representative of such person; or

(*d*) a suitable person appointed as such by the concerned Board; or

(*e*) if no such person is available to be appointed as a nominated representative, the Board shall appoint the Director, Department of Social Welfare, or his designated representative, as the nominated representative of the person with mental illness**:**

Provided that a person representing an organisation registered under the Societies Registration Act, 1860 or any other law for the time being in force, working for persons with mental illness, may temporarily be engaged by the mental health professional to discharge the duties of a nominated representative pending appointment of a nominated representative by the concerned Board. 21 of 1860.

(*5*) The representative of the organisation, referred to in the proviso to sub-section (*4*), may make a written application to the medical officer in-charge of the mental health establishment or the psychiatrist in-charge of the person's treatment, and such medical officer or psychiatrist, as the case may be, shall accept him as the temporary nominated representative, pending appointment of a nominated representative by the concerned Board.

(*6*) A person who has appointed any person as his nominated representative under this section may revoke or alter such appointment at any time in accordance with the procedure laid down for making an appointment of nominated representative under sub-section (*1*).

(*7*) The Board may, if it is of the opinion that it is in the interest of the person with mental illness to do so, revoke an appointment made by it under this section, and appoint a different representative under this section.

(*8*) The appointment of a nominated representative, or the inability of a person with mental illness to appoint a nominated representative, shall not be construed as the lack of capacity of the person to take decisions about his mental healthcare or treatment.

(*9*) All persons with mental illness shall have capacity to make mental healthcare or treatment decisions but may require varying levels of support from their nominated representative to make decisions.

Nominated representative of minor.

15. (*1*) Notwithstanding anything contained in section 14, in case of minors, the legal guardian shall be their nominated representative, unless the concerned Board orders otherwise under sub-section (*2*).

(*2*) Where on an application made to the concerned Board, by a mental health professional or any other person acting in the best interest of the minor, and on evidence presented before it, the concerned Board is of the opinion that,—

(*a*) the legal guardian is not acting in the best interests of the minor; or

(*b*) the legal guardian is otherwise not fit to act as the nominated representative of the minor,

it may appoint, any suitable individual who is willing to act as such, the nominated representative of the minor with mental illness:

Provided that in case no individual is available for appointment as a nominated representative, the Board shall appoint the Director in the Department of Social Welfare of the State in which such Board is located, or his nominee, as the nominated representative of the minor with mental illness.

Revocation, alteration, etc., of nominated representative by Board.

16. The Board, on an application made to it by the person with mental illness, or by a relative of such person, or by the psychiatrist responsible for the care of such person, or by the medical officer in-charge of the mental health establishment where the individual is admitted or proposed to be admitted, may revoke, alter or modify the order made under clause (*e*) of sub-section (*4*) of section 14 or under sub-section (*2*) of section 15.

Duties of nominated representative.

17. While fulfilling his duties under this Act, the nominated representative shall—

(*a*) consider the current and past wishes, the life history, values, cultural background and the best interests of the person with mental illness;

(*b*) give particular credence to the views of the person with mental illness to the extent that the person understands the nature of the decisions under consideration;

(*c*) provide support to the person with mental illness in making treatment decisions under section 89 or section 90;

(*d*) have right to seek information on diagnosis and treatment to provide adequate support to the person with mental illness;

(*e*) have access to the family or home based rehabilitation services as provided under clause (*c*) of sub-section (*4*) of section 18 on behalf of and for the benefit of the person with mental illness;

(*f*) be involved in discharge planning under section 98;

(*g*) apply to the mental health establishment for admission under section 87 or section 89 or section 90;

(*h*) apply to the concerned Board on behalf of the person with mental illness for discharge under section 87 or section 89 or section 90;

(*i*) apply to the concerned Board against violation of rights of the person with mental illness in a mental health establishment;

(*j*) appoint a suitable attendant under sub-section (*5*) or sub-section (*6*) of section 87;

(*k*) have the right to give or withhold consent for research under circumstances mentioned under sub-section (*3*) of section 99.

CHAPTER V

RIGHTS OF PERSONS WITH MENTAL ILLNESS

Right to access mental-health care.

18. (*1*) Every person shall have a right to access mental healthcare and treatment from mental health services run or funded by the appropriate Government.

(*2*) The right to access mental healthcare and treatment shall mean mental health services of affordable cost, of good quality, available in sufficient quantity, accessible geographically, without discrimination on the basis of gender, sex, sexual orientation, religion, culture, caste, social or political beliefs, class, disability or any other basis and provided in a manner that is acceptable to persons with mental illness and their families and care-givers.

(*3*) The appropriate Government shall make sufficient provision as may be necessary, for a range of services required by persons with mental illness.

(*4*) Without prejudice to the generality of range of services under sub-section (*3*), such services shall include—

(*a*) provision of acute mental healthcare services such as outpatient and inpatient services;

(*b*) provision of half-way homes, sheltered accommodation, supported accommodation as may be prescribed;

(*c*) provision for mental health services to support family of person with mental illness or home based rehabilitation;

(*d*) hospital and community based rehabilitation establishments and services as may be prescribed;

(*e*) provision for child mental health services and old age mental health services.

(*5*) The appropriate Government shall,—

(*a*) integrate mental health services into general healthcare services at all levels

of healthcare including primary, secondary and tertiary healthcare and in all health programmes run by the appropriate Government;

(*b*) provide treatment in a manner, which supports persons with mental illness to live in the community and with their families;

(*c*) ensure that the long term care in a mental health establishment for treatment of mental illness shall be used only in exceptional circumstances, for as short a duration as possible, and only as a last resort when appropriate community based treatment has been tried and shown to have failed;

(*d*) ensure that no person with mental illness (including children and older persons) shall be required to travel long distances to access mental health services and such services shall be available close to a place where a person with mental illness resides;

(*e*) ensure that as a minimum, mental health services run or funded by Government shall be available in each district;

(*f*) ensure, if minimum mental health services specified under sub-clause (*e*) of sub-section (*4*) are not available in the district where a person with mental illness resides, that the person with mental illness is entitled to access any other mental health service in the district and the costs of treatment at such establishments in that district will be borne by the appropriate Government:

Provided that till such time the services under this sub-section are made available in a health establishment run or funded by the appropriate Government, the appropriate Government shall make rules regarding reimbursement of costs of treatment at such mental health establishment.

(*6*) The appropriate Government shall make available a range of appropriate mental health services specified under sub-section (*4*) of section 18 at all general hospitals run or funded by such Government and basic and emergency mental healthcare services shall be available at all community health centres and upwards in the public health system run or funded by such Government.

(*7*) Persons with mental illness living below the poverty line whether or not in possession of a below poverty line card, or who are destitute or homeless shall be entitled to mental health treatment and services free of any charge and at no financial cost at all mental health establishments run or funded by the appropriate Government and at other mental health establishments designated by it.

(*8*) The appropriate Government shall ensure that the mental health services shall be of equal quality to other general health services and no discrimination be made in quality of services provided to persons with mental illness.

(*9*) The minimum quality standards of mental health services shall be as specified by regulations made by the State Authority.

(*10*) Without prejudice to the generality of range of services under sub-section (*3*) of section 18, the appropriate Government shall notify Essential Drug List and all medicines on the Essential Drug List shall be made available free of cost to all persons with mental illness at all times at health establishments run or funded by the appropriate Government starting from Community Health Centres and upwards in the public health system:

Provided that where the health professional of ayurveda, yoga, unani, siddha, homoeopathy or naturopathy systems recognised by the Central Government are available in any health establishment, the essential medicines from any similar list relating to the appropriate ayurvada, yoga, unani, siddha, homoeopathy or naturopathy systems shall also be made available free of cost to all persons with mental illness.

(*11*) The appropriate Government shall take measures to ensure that necessary budgetary provisions in terms of adequacy, priority, progress and equity are made for effective implementation of the provisions of this section.

Explanation.—For the purposes of sub-section (*11*), the expressions—

(*i*) "adequacy" means in terms of how much is enough to offset inflation;

(*ii*) "priority" means in terms of compared to other budget heads;

(*iii*) "equity" means in terms of fair allocation of resources taking into account the health, social and economic burden of mental illness on individuals, their families and care-givers;

(*iv*) "progress" means in terms of indicating an improvement in the State's response.

Right to community living.

19. (*1*) Every person with mental illness shall,—

(*a*) have a right to live in, be part of and not be segregated from society; and

(*b*) not continue to remain in a mental health establishment merely because he does not have a family or is not accepted by his family or is homeless or due to absence of community based facilities.

(*2*) Where it is not possible for a mentally ill person to live with his family or relatives, or where a mentally ill person has been abandoned by his family or relatives, the appropriate Government shall provide support as appropriate including legal aid and to facilitate exercising his right to family home and living in the family home.

(*3*) The appropriate Government shall, within a reasonable period, provide for or support the establishment of less restrictive community based establishments including half-way homes, group homes and the like for persons who no longer require treatment in more restrictive mental health establishments such as long stay mental hospitals.

Right to protection from cruel, inhuman and degrading treatment.

20. (*1*) Every person with mental illness shall have a right to live with dignity.

(*2*) Every person with mental illness shall be protected from cruel, inhuman or degrading treatment in any mental health establishment and shall have the following rights, namely:—

(*a*) to live in safe and hygienic environment;

(*b*) to have adequate sanitary conditions;

(*c*) to have reasonable facilities for leisure, recreation, education and religious practices;

(*d*) to privacy;

(*e*) for proper clothing so as to protect such person from exposure of his body to maintain his dignity;

(*f*) to not be forced to undertake work in a mental health establishment and to receive appropriate remuneration for work when undertaken;

(*g*) to have adequate provision for preparing for living in the community;

(*h*) to have adequate provision for wholesome food, sanitation, space and access to articles of personal hygiene, in particular, women's personal hygiene be adequately addressed by providing access to items that may be required during menstruation;

(*i*) to not be subject to compulsory tonsuring (shaving of head hair);

(*j*) to wear own personal clothes if so wished and to not be forced to wear uniforms provided by the establishment; and

(*k*) to be protected from all forms of physical, verbal, emotional and sexual abuse.

Right to equality and non- discrimination.

21. (*1*) Every person with mental illness shall be treated as equal to persons with physical illness in the provision of all healthcare which shall include the following, namely:–

(*a*) there shall be no discrimination on any basis including gender, sex, sexual orientation, religion, culture, caste, social or political beliefs, class or disability;

(*b*) emergency facilities and emergency services for mental illness shall be of the same quality and availability as those provided to persons with physical illness;

(*c*) persons with mental illness shall be entitled to the use of ambulance services in the same manner, extent and quality as provided to persons with physical illness;

(*d*) living conditions in health establishments shall be of the same manner, extent and quality as provided to persons with physical illness; and

(*e*) any other health services provided to persons with physical illness shall be provided in same manner, extent and quality to persons with mental illness.

(*2*) A child under the age of three years of a woman receiving care, treatment or rehabilitation at a mental health establishment shall ordinarily not be separated from her during her stay in such establishment:

Provided that where the treating Psychiatrist, based on his examination of the woman, and if appropriate, on information provided by others, is of the opinion that there is risk of harm to the child from the woman due to her mental illness or it is in the interest and safety of the child, the child shall be temporarily separated from the woman during her stay at the mental health establishment:

Provided further that the woman shall continue to have access to the child under such supervision of the staff of the establishment or her family, as may be appropriate, during the period of separation.

(*3*) The decision to separate the woman from her child shall be reviewed every fifteen days during the woman's stay in the mental health establishment and separation shall be terminated as soon as conditions which required the separation no longer exist:

Provided that any separation permitted as per the assessment of a mental health professional, if it exceeds thirty days at a stretch, shall be required to be approved by the respective Authority.

(*4*) Every insurer shall make provision for medical insurance for treatment of mental illness on the same basis as is available for treatment of physical illness.

Right to information.

22. (*1*) A person with mental illness and his nominated representative shall have the rights to the following information, namely:—

(*a*) the provision of this Act or any other law for the time being in force under which he has been admitted, if he is being admitted, and the criteria for admission under that provision;

(*b*) of his right to make an application to the concerned Board for a review of the admission;

(*c*) the nature of the person's mental illness and the proposed treatment plan which includes information about treatment proposed and the known side effects of the proposed treatment;

(*d*) receive the information in a language and form that such person receiving the information can understand.

(*2*) In case complete information cannot be given to the person with mental illness at the time of the admission or the start of treatment, it shall be the duty of the medical officer or psychiatrist in-charge of the person's care to ensure that full information is provided promptly when the individual is in a position to receive it:

Provided that where the information has not been given to the person with mental illness at the time of the admission or the start of treatment, the medical officer or psychiatrist in charge of the person's care shall give the information to the nominated representative immediately.

Right to confidentiality.

23. (*1*) A person with mental illness shall have the right to confidentiality in respect of his mental health, mental healthcare, treatment and physical healthcare.

(*2*) All health professionals providing care or treatment to a person with mental illness shall have a duty to keep all such information confidential which has been obtained during care or treatment with the following exceptions, namely:—

(*a*) release of information to the nominated representative to enable him to fulfil his duties under this Act;

(*b*) release of information to other mental health professionals and other health professionals to enable them to provide care and treatment to the person with mental illness;

(*c*) release of information if it is necessary to protect any other person from harm or violence;

(*d)* only such information that is necessary to protect against the harm identified shall be released;

(*e*) release only such information as is necessary to prevent threat to life;

(*f*) release of information upon an order by concerned Board or the Central Authority or High Court or Supreme Court or any other statutory authority competent to do so; and

(*g*) release of information in the interests of public safety and security.

Restriction on release of information in respect of mental illness.

24. (*1*) No photograph or any other information relating to a person with mental illness undergoing treatment at a mental health establishment shall be released to the media without the consent of the person with mental illness.

(*2*) The right to confidentiality of person with mental illness shall also apply to all information stored in electronic or digital format in real or virtual space.

Right to access medical records.

25. (*1*) All persons with mental illness shall have the right to access their basic medical records as may be prescribed.

(*2*) The mental health professional in charge of such records may withhold specific information in the medical records if disclosure would result in,—

(*a*) serious mental harm to the person with mental illness; or

(*b*) likelihood of harm to other persons.

(*3*) When any information in the medical records is withheld from the person, the mental health professional shall inform the person with mental illness of his right to apply to the concerned Board for an order to release such information.

Right to personal contacts and communication.

26. (*1*) A person with mental illness admitted to a mental health establishment shall have the right to refuse or receive visitors and to refuse or receive and make telephone or mobile phone calls at reasonable times subject to the norms of such mental health establishment.

(*2*) A person with mental illness admitted in a mental health establishment may send and receive mail through electronic mode including through e-mail.

(*3*) Where a person with mental illness informs the medical officer or mental health professional in charge of the mental health establishment that he does not want to receive mail or email from any named person in the community, the medical officer or mental health professional in charge may restrict such communication by the named person with the person with mental illness.

(*4*) Nothing contained in sub-sections (*1*) to (*3*) shall apply to visits from, telephone calls to, and from mail or e-mail to, and from individuals, specified under clauses (*a*) to (*f*) under any circumstances, namely:—

(*a*) any Judge or officer authorised by a competent court;

(*b*) members of the concerned Board or the Central Authority or the State Authority;

(*c*) any member of the Parliament or a Member of State Legislature;

(*d*) nominated representative, lawyer or legal representative of the person;

(*e*) medical practitioner in charge of the person's treatment;

(*f*) any other person authorised by the appropriate Government.

Right to legal aid.

27. (*1*) A person with mental illness shall be entitled to receive free legal services to exercise any of his rights given under this Act.

(*2*) It shall be the duty of magistrate, police officer, person in charge of such custodial institution as may be prescribed or medical officer or mental health professional in charge of a mental health establishment to inform the person with mental illness that he is entitled to free legal services under the Legal Services Authorities Act, 1987 or other relevant laws or under any order of the court if so ordered and provide the contact details of the availability of services. 39 of 1987.

Right to make complaints about deficiencies in provision of services.

28. (*1*) Any person with mental illness or his nominated representative, shall have the right to complain regarding deficiencies in provision of care, treatment and services in a mental health establishment to,—

(*a*) the medical officer or mental health professional in charge of the establishment and if not satisfied with the response;

(*b*) the concerned Board and if not satisfied with the response;

(*c*) the State Authority.

(*2*) The provisions for making complaint in sub-section (*1*), is without prejudice to the rights of the person to seek any judicial remedy for violation of his rights in a mental health establishment or by any mental health professional either under this Act or any other law for the time being in force.

CHAPTER VI

DUTIES OF APPROPRIATE GOVERNMENT

Promotion of mental health and preventive programmes.

29. (*1*) The appropriate Government shall have a duty to plan, design and implement programmes for the promotion of mental health and prevention of mental illness in the country.

(*2*) Without prejudice to the generality of the provisions contained in sub-section (*1*), the appropriate Government shall, in particular, plan, design and implement public health programmes to reduce suicides and attempted suicides in the country.

Creating awareness about mental health and illness and reducing stigma associated with mental illness.

30. The appropriate Government shall take all measures to ensure that,—

(*a*) the provisions of this Act are given wide publicity through public media, including television, radio, print and online media at regular intervals;

(*b*) the programmes to reduce stigma associated with mental illness are planned, designed, funded and implemented in an effective manner;

(*c*) the appropriate Government officials including police officers and other officers of the appropriate Government are given periodic sensitisation and awareness training on the issues under this Act.

Appropriate Government to take measures as regard to human resource development and training, etc.

31. (*1*) The appropriate Government shall take measures to address the human resource requirements of mental health services in the country by planning, developing and implementing educational and training programmes in collaboration with institutions of higher education and training, to increase the human resources available to deliver mental health interventions and to improve the skills of the available human resources to better address the needs of persons with mental illness.

(*2*) The appropriate Government shall, at the minimum, train all medical officers in public healthcare establishments and all medical officers in the prisons or jails to provide basic and emergency mental healthcare.

(*3*) The appropriate Government shall make efforts to meet internationally accepted guidelines for number of mental health professionals on the basis of population, within ten years from the commencement of this Act.

Co-ordination within appropriate Government.

32. The appropriate Government shall take all measures to ensure effective co-ordination between services provided by concerned Ministries and Departments such as those dealing with health, law, home affairs, human resources, social justice, employment, education, women and child development, medical education to address issues of mental health care.

CHAPTER VII

CENTRAL MENTAL HEALTH AUTHORITY

Establishment of Central Authority.

33. The Central Government shall, within a period of nine months from the date on which this Act receives the assent of the President, by notification, establish, for the purposes of this Act, an Authority to be known as the Central Mental Health Authority.

Composition of Central Authority.

34. (*1*) The Central Authority shall consist of the following, namely:—

(*a*) Secretary or Additional Secretary to the Government of India in the Department of Health and Family Welfare—chairperson *ex officio*;

(*b*) Joint Secretary to the Government of India in the Department of Health and Family Welfare, in charge of mental health—member *ex officio*;

(*c*) Joint Secretary to the Government of India in the Department of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy— member *ex officio;*

(*d*) Director General of Health Services—member *ex officio*;

(*e*) Joint Secretary to the Government of India in the Department of Disability Affairs of the Ministry of Social Justice and Empowerment— member *ex officio;*

(*f*) Joint Secretary to the Government of India in the Ministry of Women and Child Development— member *ex officio;*

(*g*) Directors of the Central Institutions for Mental Health—members *ex officio;*

(*h*) such other *ex officio* representatives from the relevant Central Government Ministries or Departments;

(i) one mental health professional as defined in item (*iii*) of clause (*r*) of sub-section (*1*) of section 2 having at least fifteen years experience in the field, to be nominated by the Central Government—member;

(*j*) one psychiatric social worker having at least fifteen years experience in the field, to be nominated by the Central Government—member;

(*k*) one clinical psychologist having at least fifteen years experience in the field, to be nominated by the Central Government—member;

(*l*) one mental health nurse having at least fifteen years experience in the field of mental health, to be nominated by the Central Government—member;

(*m*) two persons representing persons who have or have had mental illness, to be nominated by the Central Government—members;

(*n*) two persons representing care-givers of persons with mental illness or organisations representing care-givers, to be nominated by the Central Government—members;

(*o*) two persons representing non-governmental organisations which provide services to persons with mental illness, to be nominated by the Central Government—members;

(*p*) two persons representing areas relevant to mental health, if considered necessary.

(*2*) The members referred to in clauses (*h*) to (*p*) of sub-section (*1*), shall be nominated by the Central Government in such manner as may be prescribed.

Term of office, salaries and allowances of chairperson and members.

35. (*1*) The members of the Central Authority referred to in clauses (*h*) to (*p*) of sub-section (*1*) of section 34 shall hold office as such for a term of three years from the date of nomination and shall be eligible for reappointment:

Provided that a member shall not hold office as such after he has attained the age of seventy years.

(*2*) The chairperson and other *ex officio* members of the Authority shall hold office as such chairperson or member, as the case may be, so long as he holds the office by virtue of which he is nominated.

(*3*) **The salaries and allowances payable to, and the other terms and conditions of service of, the chairperson and other members shall be such as may be prescribed.**

Resignation.

36. A member of the Central Authority may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that a member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon the office or until the expiry of his term of office, whichever is the earliest.

Filling of vacancies.

37. The Central Government shall, within two months from the date of occurrence of any vacancy by reason of death, resignation or removal of a member of the Authority and three months before the superannuation or completion of the term of office of any member of that Authority, make nomination for filling up of the vacancy.

Vacancies, etc., not to invalidate proceedings of Central Authority.

38. No act or proceeding of the Central Authority shall be invalid merely by reason of—

(*a*) any vacancy in, or any defect in the constitution of, the Authority; or

(*b*) any defect in the appointment of a person as a member of the Authority; or

(*c*) any irregularity in the procedure of the Authority not affecting the merits of the case.

Member not to participate in meetings in certain cases.

39. Any member having any direct or indirect interest, whether pecuniary or otherwise, in any matter coming up for consideration at a meeting of the Central Authority, shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Central Authority, and the member shall not take any part in any deliberation or decision of the Authority with respect to that matter.

Officers and other employees of Central Authority.

40. (*1*) There shall be a chief executive officer of the Authority, not below the rank of the Director to the Government of India, to be appointed by the Central Government.

(*2*) The Authority may, with the approval of the Central Government, determine the number, nature and categories of other officers and employees required by the Central Authority in the discharge of its functions.

(*3*) The salaries and allowances payable to, and the other terms and conditions of service (including the qualifications, experience and manner of appointment) of, the chief executive officer and other officers and employees of the Central Authority shall be such as may be specified by regulations with the approval of the Central Government.

Functions of chief executive officer of Central Authority.

41. (*1*) The chief executive officer shall be the legal representative of the Central Authority and shall be responsible for—

(*a*) the day-to-day administration of the Central Authority;

(*b*) implementing the work programmes and decisions adopted by the Central Authority;

(*c*) drawing up of proposal for the Central Authority's work programmes;

(*d*) the preparation of the statement of revenue and expenditure and the execution of the budget of the Central Authority.

(*2*) Every year, the chief executive officer shall submit to the Central Authority for approval—

(*a*) a general report covering all the activities of the Central Authority in the previous year;

(*b*) programmes of work;

(*c*) the annual accounts for the previous year; and

(*d*) the budget for the coming year.

(*3*) The chief executive officer shall have administrative control over the officers and other employees of the Central Authority.

Transfer of assets, liabilities of Central Authority.

42. On the establishment of the Central Authority—

(*a*) all the assets and liabilities of the Central Authority for Mental Health Services constituted under sub-section (*1*) of section 3 of the Mental Health Act, 1987 shall stand transferred to, and vested in, the Central Authority. 14 of 1987.

Explanation.—The assets of such Central Authority for Mental Health Services shall be deemed to include all rights and powers, and all properties, whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in, or arising out of, such properties as may be in the possession of such Unique Identification Authority of India and all books of account and other documents relating to the same; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind;

(*b*) without prejudice to the provisions of clause (*a*), all data and information collected during enrolment, all details of authentication performed, debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for such Central Authority for Mental Health Services immediately before that day, for or in connection with the purpose of the said Central Authority for Mental Health Services, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Central Authority;

(*c*) all sums of money due to the Central Authority for Mental Health Services immediately before that day shall be deemed to be due to the Central Authority; and

(*d*) all suits and other legal proceedings instituted or which could have been instituted by or against such Central Authority for Mental Health Services immediately before that day may be continued or may be instituted by or against the Central Authority.

Functions of Central Authority.

43. (*1*) The Central Authority shall—

(*a*) register all mental health establishments under the control of the Central Government and maintain a register of all mental health establishments in the country based on information provided by all State Mental Health Authorities of registered establishments and compile update and publish (including online on the internet) a register of such establishments;

(*b*) develop quality and service provision norms for different types of mental health establishments under the Central Government;

(*c*) supervise all mental health establishments under the Central Government and receive complaints about deficiencies in provision of services;

(*d*) maintain a national register of clinical psychologists, mental health nurses and psychiatric social workers based on information provided by all State Authorities of persons registered to work as mental health professionals for the purpose of this Act and publish the list (including online on the internet) of such registered mental health professionals;

(*e*) train all persons including law enforcement officials, mental health professionals and other health professionals about the provisions and implementation of this Act;

(*f*) advise the Central Government on all matters relating to mental healthcare and services;

(*g*) discharge such other functions with respect to matters relating to mental health as the Central Government may decide:

Provided that the mental health establishments under the control of the Central Government, before the commencement of this Act, registered under the Mental Health Act, 1987 or any other law for the time being in force, shall be deemed to have been registered under the provisions of this Act and copy of such registration shall be furnished to the Central Authority.

14 of 1987.

(*2*) The procedure for registration (including the fees to be levied for such registration) of the mental health establishments under this section shall be such as may be prescribed by the Central Government.

Meetings of Central Authority.

44. (*1*) The Central Authority shall meet at such times (not less than twice in a year) and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be specified by regulations made by the Central Authority.

(*2*) If the chairperson, for any reason, is unable to attend a meeting of the Central Authority, the senior-most member shall preside over the meeting of the Authority.

(*3*) All questions which come up before any meeting of the Authority shall be decided by a majority of votes by the members present and voting and in the event of an equality of votes, the chairperson or in his absence the member presiding over shall have a second or casting vote.

(*4*) All decisions of the Central Authority shall be authenticated by the signature of the chairperson or any other member authorised by the Central Authority in this behalf.

(*5*) If any member, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any manner coming up for consideration at a meeting of the Central Authority, he shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority, and the member shall not take part in any deliberation or decision of the Authority with respect to that matter.

CHAPTER VIII

STATE MENTAL HEALTH AUTHORITY

Establishment of State Authority.

45. Every State Government shall, within a period of nine months from the date on which this Act receives the assent of the President, by notification, establish, for the purposes of this Act, an Authority to be known as the State Mental Health Authority.

Composition of State Authority.

46. (*1*) The State Authority shall consist of the following chairperson and members:—

(*a*) Secretary or Principal Secretary in the Department of Health of State Government—chairperson *ex officio*;

(*b*) Joint Secretary in the Department of Health of the State Government, in charge of mental health—member *ex officio*;

(*c*) Director of Health Services or Medical Education—member *ex officio*;

(*d*) Joint Secretary in the Department of Social Welfare of the State Government—member *ex officio*;

(*e*) such other *ex officio* representatives from the relevant State Government Ministries or Departments;

(*f*) Head of any of the Mental Hospitals in the State or Head of Department of Psychiatry at any Government Medical College, to be nominated by the State Government—member;

(*g*) one eminent psychiatrist from the State not in Government service to be nominated by the State Government—member;

(*h*) one mental health professional as defined in item (*iii*) of clause (*q*) of sub-section (*1*) of section 2 having at least fifteen years experience in the field, to be nominated by the State Government—member;

(*i*) one psychiatric social worker having at least fifteen years experience in the field, to be nominated by the State Government—member;

(*j*) one clinical psychologist having at least fifteen years experience in the field, to be nominated by the State Government—member;

(*k*) one mental health nurse having at least fifteen years experience in the field of mental health, to be nominated by the State Government—member;

(*l*) two persons representing persons who have or have had mental illness, to be nominated by the State Government—member;

(*m*) two persons representing care-givers of persons with mental illness or organisations representing care-givers, to be nominated by the State Government—members;

(*n*) two persons representing non-governmental organisations which provide services to persons with mental illness, to be nominated by the State Government—members.

(*2*) The members referred to in clauses (*e*) to (*n*) of sub-section (*1*), shall be nominated by the State Government in such manner as may be prescribed.

Term of office, salaries and allowances of chairperson and other members.

47. (*1*) The members of the State Authority referred to in clauses (*e*) to (*n*) of sub-section (*1*) of section 46 shall hold office as such for a term of three years from the date of nomination and shall be eligible for reappointment:

Provided that a member shall not hold office as such after he has attained the age of seventy years.

(*2*) The chairperson and other *ex officio* members of the State Authority shall hold office as such chairperson or member, as the case may be, so long as he holds the office by virtue of which he is nominated.

(*3*) **The salaries and allowances payable to, and the other terms and conditions of service of, the chairperson and other members shall be such as may be prescribed.**

Resignation.

48. A member of the State Authority may, by notice in writing under his hand addressed to the State Government, resign his office:

Provided that a member shall, unless he is permitted by the State Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon office or until the expiry of his term of office, whichever is the earliest.

Filling of vacancies.

49. The State Government shall, within two months from the date of occurrence of any vacancy by reason of death, resignation or removal of a member of the Authority and three months before the superannuation or completion of the term of office of any member of that Authority, make nomination for filling up of the vacancy.

Vacancies, etc., not to invalidate proceedings of State Authority.

50. No act or proceeding of the State Authority shall be invalid merely by reason of—

(*a*) any vacancy in, or any defect in the constitution of, the State Authority; or

(*b*) any defect in the appointment of a person as a member of the State Authority; or

(*c*) any irregularity in the procedure of the Authority not affecting the merits of the case.

Member not to participate in meetings in certain cases.

51. Any member having any direct or indirect interest, whether pecuniary or otherwise, in any matter coming up for consideration at a meeting of the State Authority, shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the State Authority, and the member shall not take any part in any deliberation or decision of the State Authority with respect to that matter.

Officers and other employees of State Authority.

52. (*1*) There shall be a chief executive officer of the State Authority, not below the rank of the Deputy Secretary to the State Government, to be appointed by the State Government.

(*2*) The State Authority may, with the approval of the State Government, determine the number, nature and categories of other officers and employees required by the State Authority in the discharge of its functions.

(*3*) The salaries and allowances payable to, and the other terms and conditions of service (including the qualifications, experience and manner of appointment) of, the chief executive officer and other officers and employees of the State Authority shall be such as may be specified by regulations with the approval of the State Government.

Functions of chief executive officer of State Authority.

53. (*1*) The chief executive officer shall be the legal representative of the State Authority and shall be responsible for—

(*a*) the day-to-day administration of the State Authority;

(*b*) implementing the work programmes and decisions adopted by the State Authority;

(*c*) drawing up of proposal for the State Authority's work programmes;

(*d*) the preparation of the statement of revenue and expenditure and the execution of the budget of the State Authority.

(*2*) Every year, the chief executive officer shall submit to the State Authority for approval—

(*a*) a general report covering all the activities of the Authority in the previous year;

(*b*) programmes of work;

(*c*) the annual accounts for the previous year; and

(*d*) the budget for the coming year.

(*3*) The chief executive officer shall have administrative control over the officers and other employees of the State Authority.

Transfer of assets, liabilities of State Authority.

54. On and from the establishment of the State Authority—

14 of 1987.

(*a*) all the assets and liabilities of the State Authority for Mental Health Services constituted under sub-section (*1*) of section 4 of the Mental Health Act, 1987 shall stand transferred to, and vested in, the State Authority.

Explanation.—The assets of such State Authority for Mental Health Services shall be deemed to include all rights and powers, and all properties, whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in, or arising out of, such properties as may be in the possession of such State Authority for Mental Health Services and all books of account and other documents relating to the same; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind;

(*b*) without prejudice to the provisions of clause (*a*), all data and information collected during enrolment, all details of authentication performed, debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for such State Authority for Mental Health Services immediately before that day, for or in connection with the purpose of the said State Authority for Mental Health Services, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the State Authority;

(*c*) all sums of money due to the State Authority for Mental Health Services immediately before that day shall be deemed to be due to the State Authority; and

(*d*) all suits and other legal proceedings instituted or which could have been instituted by or against such State Authority for Mental Health Services immediately before that day may be continued or may be instituted by or against the State Authority.

Functions of State Authority.

55. (*1*) The State Authority shall—

(*a*) register all mental health establishments in the State except those referred to in section 43 and maintain and publish (including online on the internet) a register of such establishments;

(*b*) develop quality and service provision norms for different types of mental health establishments in the State;

(*c*) supervise all mental health establishments in the State and receive complaints about deficiencies in provision of services;

(*d*) register clinical psychologists, mental health nurses and psychiatric social workers in the State to work as mental health professionals, and publish the list of such registered mental health professionals in such manner as may be specified by regulations by the State Authority;

(*e*) train all relevant persons including law enforcement officials, mental health professionals and other health professionals about the provisions and implementation of this Act;

(*f*) discharge such other functions with respect to matters relating to mental health as the State Government may decide:

Provided that the mental health establishments in the State (except those referred to in section 43), registered, before the commencement of this Act, under the Mental Health Act, 1987 or any other law for the time being in force, shall be deemed to have been registered under the provisions of this Act and copy of such registration shall be furnished to the State Authority. 14 of 1987.

(*2*) The procedure for registration (including the fees to be levied for such registration) of the mental health establishments under this section shall be such as may be prescribed by the State Government.

Meetings of State Authority.

56. (*1*) The State Authority shall meet at such times (not less than four times in a year) and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be specified by regulations made by the State Authority.

(*2*) If the chairperson, for any reason, is unable to attend a meeting of the State Authority, the senior- most member shall preside over the meetings of the Authority.

(*3*) All questions which come up before any meeting of the State Authority shall be decided by a majority of votes by the members present and voting and in the event of an equality of votes, the chairperson or in his absence the member presiding over shall have a second or casting vote.

(*4*) All decisions of the State Authority shall be authenticated by the signature of the chairperson or any other member authorised by the State Authority in this behalf.

(*5*) If any member, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any manner coming up for consideration at a meeting of the State Authority, he shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority, and the member shall not take part in any deliberation or decision of the State Authority with respect to that matter.

CHAPTER IX

FINANCE, ACCOUNTS AND AUDIT

Grants by Central Government to Central Authority.

57. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Central Authority grants of such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

Central Mental Health Authority Fund.

58. (*1*) There shall be constituted a Fund to be called the Central Mental Health Authority Fund and there shall be credited thereto—

(*i*) any grants and loans made to the Authority by the Central Government;

(*ii*) all fees and charges received by the Authority under this Act; and

(*iii*) all sums received by the Authority from such other sources as may be decided upon by the Central Government.

(*2*) The Fund referred to in sub-section (*1*) shall be applied for meeting the salary, allowances and other remuneration of the chairperson, other members, chief executive officer, other officers and employees of the Authority and the expenses of the Authority incurred in the discharge of its functions and for purposes of this Act.

Accounts and audit of Central Authority.

59. (*1*) The Central Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government, in consultation with the Comptroller and Auditor-General of India.

(*2*) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General of India.

(*3*) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the office of the Authority.

(*4*) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon, shall be forwarded annually to the Central Government by the Authority and the Central Government shall cause the same to be laid before each House of Parliament.

Annual report of Central Authority.

60. The Central Authority shall prepare in every year, in such form and at such time as may be prescribed by the Central Government, an annual report giving a full account of its activities during the previous year, and copies thereof along with copies of its annual accounts and auditor's report shall be forwarded to the Central Government and the Central Government shall cause the same to be laid before both Houses of Parliament.

Grants by State Government.

61. The State Government may, after due appropriation made by State Legislature by law in this behalf, make to the State Authority grants of such sums of money as the State Government may think fit for being utilised for the purposes of this Act.

State Mental Health Authority Fund.

62. (*1*) There shall be constituted a Fund to be called the State Mental Health Authority Fund and there shall be credited thereto—

(*i*) any grants and loans made to the State Authority by the State Government;

(*ii*) all fees and charges received by the Authority under this Act; and

(*iii*) all sums received by the State Authority from such other sources as may be decided upon by the State Government.

(*2*) The Fund referred to in sub-section (*1*) shall be applied for meeting the salary, allowances and other remuneration of the chairperson, other members, chief executive officer, other officers and employees of the State Authority and the expenses of the State Authority incurred in the discharge of its functions and for purposes of this Act.

Accounts and audit of State Authority.

63. (*1*) The State Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government, in consultation with the Comptroller and Auditor-General of India.

(*2*) The accounts of the State Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the State Authority to the Comptroller and Auditor-General of India.

(*3*) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the State Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the office of the State Authority.

Annual report of State Authority.

64. The State Authority shall prepare in every year, in such form and at such time as may be prescribed by the State Government, an annual report giving a full account of its activities during the previous year, and copies thereof along with copies of its annual accounts and auditor's report shall be forwarded to the State Government and the Government shall cause the same to be laid before the State Legislature.

CHAPTER X

MENTAL HEALTH ESTABLISHMENTS

Registration of mental health establishment.

65. (*1*) No person or organisation shall establish or run a mental health establishment unless it has been registered with the Authority under the provisions of this Act.

Explanation.—For the purposes of this Chapter, the expression "Authority" means—

(*a*) in respect of the mental health establishments under the control of the Central Government, the Central Authority;

(*b*) in respect of the mental health establishments in the State [not being the health establishments referred to in clause (*a*)], the State Authority.

(*2*) Every person or organisation who proposes to establish or run a mental health establishment shall register the said establishment with the Authority under the provisions of this Act:

Provided that the Central Government, may, by notification, exempt any category or class of existing mental health establishments from the requirement of registration under this Act.

Explanation.—In case a mental health establishment has been registered under the Clinical Establishments (Registration and Regulation) Act, 2010 or any other law for the time being in force in a State, such mental health establishment shall submit a copy of the said registration along with an application in such form as may be prescribed to the Authority with an undertaking that the mental health establishment fulfils the minimum standards, if any, specified by the Authority for the specific category of mental health establishment.

23 of 2010.

(*3*) The Authority shall, on receipt of application under sub-section (*2*), on being satisfied that such mental health establishment fulfils the standards specified by the Authority, issue a certificate of registration in such form as may be prescribed:

Provided that till the period the Authority specifies the minimum standards for different categories of mental health establishments, it shall issue a provisional certificate of registration to the mental health establishment:

Provided further that on specifying the minimum standards for different categories of mental health establishments, the mental health establishment referred to in the first proviso shall, within a period of six months from the date such standards are specified, submit to the Authority an undertaking stating therein that such establishment fulfils the specified minimum standards and on being satisfied that such establishment fulfils the minimum standards, the Authority shall issue a certificate of registration to such mental health establishment.

(*4*) Every mental health establishment shall, for the purpose of registration and continuation of registration, fulfil—

(*a*) the minimum standards of facilities and services as may be specified by regulations made by the Authority;

(*b*) the minimum qualifications for the personnel engaged in such establishment as may be specified by regulations made by the Authority;

(*c*) provisions for maintenance of records and reporting as may be specified by regulations made by the Authority; and

(*d*) any other conditions as may be specified by regulations made by the Authority.

(*5*) The Authority may—

(*a*) classify mental health establishments into such different categories, as may be specified by regulations made by the Central Authority;

(*b*) specify different standards for different categories of mental health establishments;

(*c*) while specifying the minimum standards for mental health establishments, have regard to local conditions.

(*6*) Notwithstanding anything in this section, the Authority shall, within a period of eighteen months from the commencement of this Act, by notification, specify the minimum standards for different categories of mental health establishments.

Procedure for registration, inspection and inquiry of mental health establish-ments.

66. (*1*) The mental health establishment shall, for the purpose of registration, submit an application, in such form, accompanied with such details and fees, as may be prescribed, to the Authority.

(*2*) The mental health establishment may submit the application in person or by post or online.

(*3*) Every mental health establishment, existing on the date of commencement of this Act, shall, within a period of six months from the date of constitution of the Authority, submit an application for its provisional registration to the Authority.

(*4*) The Authority shall, within a period of ten days from the date of receipt of such application, issue to the mental health establishment a certificate of provisional registration in such form and containing such particulars and information as may be prescribed.

(*5*) The Authority shall not be required to conduct any inquiry prior to issue of provisional registration.

(*6*) The Authority shall, within a period of forty-five days from the date of provisional registration, publish in print and in digital form online, all particulars of the mental health establishment.

(*7*) A provisional registration shall be valid for a period of twelve months from the date of its issue and be renewable.

(*8*) Where standards for particular categories of mental health establishments have been specified under this Act, the mental health establishments in that category shall, within a period of six months from date of notifying such standards, apply for that category and obtain permanent registration.

(*9*) The Authority shall publish the standards in print and online in digital format.

(*10*) Until standards for particular categories of mental health establishments are specified under this Act, every mental health establishment shall, within thirty days before the expiry of the validity of certificate of provisional registration, apply for a renewal of provisional registration.

(*11*) If the application is made after the expiry of provisional registration, the Authority shall allow renewal of registration on payment of such fees, as may be prescribed.

(*12*) A mental health establishment shall make an application for permanent registration to the Authority in such form and accompanied with such fees as may be specified by regulations.

(*13*) The mental health establishment shall submit evidence that the establishment has complied with the specified minimum standards in such manner as may be specified by regulations by the Authority.

(*14*) As soon as the mental health establishment submits the required evidence of the mental health establishment having complied with the specified minimum standards, the Authority shall give public notice and display the same on its website for a period of thirty days, for filing objections, if any, in such manner as may be specified by regulations.

(*15*) The Authority shall, communicate the objections, if any, received within the period referred to in sub-section (*14*), to the mental health establishment for response within such period as the Authority may determine.

(*16*) The mental health establishment shall submit evidence of compliance with the standards with reference to the objections communicated to such establishment under sub-section (*15*), to the Authority within the specified period.

(*17*) The Authority shall on being satisfied that the mental health establishment fulfils the specified minimum standards for registration, grant permanent certificate of registration to such establishment.

(*18*) The Authority shall, within a period of forty-five days after the expiry of the period specified under this section, pass an order, either—

(*a*) grant permanent certificate of registration; or

(*b*) reject the application after recording the reasons thereof:

Provided that in case the Authority rejects the application under clause (*b*), it shall grant such period not exceeding six months, to the mental health establishment for rectification of the deficiencies which have led to rejection of the application and such establishment may apply afresh for registration.

(*19*) Notwithstanding anything contained in this section, if the Authority has neither communicated any objections received by it to the mental health establishment under sub-section (*15*), nor has passed an order under sub-section (*18*), the registration shall be deemed to have been granted by the Authority and the Authority shall provide a permanent certificate of registration.

Audit of mental health establishment.

67. (*1*) The Authority shall cause to be conducted an audit of all registered mental health establishments by such person or persons (including representatives of the local community) as may be prescribed, every three years, so as to ensure that such mental health establishments comply with the requirements of minimum standards for registration as a mental health establishment.

(*2*) The Authority may charge the mental health establishment such fee as may be prescribed, for conducting the audit under this section.

(*3*) The Authority may issue a show cause notice to a mental health establishment as to why its registration under this Act not be cancelled, if the Authority is satisfied that—

(*a*) the mental health establishment has failed to maintain the minimum standards specified by the Authority; or

(*b*) the person or persons or entities entrusted with the management of the mental health establishment have been convicted of an offence under this Act; or

(*c*) the mental health establishment violates the rights of any person with mental illness.

(*4*) The Authority may, after giving a reasonable opportunity to the mental health establishment, if satisfied that the mental health establishment falls under clause (*a*) or clause (*b*) or clause (*c*) of sub-section (*3*), without prejudice to any other action which it may take against the mental health establishment, cancel its registration.

(*5*) Every order made under sub-section (*4*) shall take effect—

(*a*) where no appeal has been preferred against such order, immediately on the expiry of the period specified for preferring of appeal; and

(*b*) where the appeal has been preferred against such an order and the appeal has been dismissed, from the date of the order of dismissal.

(*6*) The Authority shall, on cancellation of the registration for reasons to be recorded in writing, restrain immediately the mental health establishment from carrying on its operations, if there is imminent danger to the health and safety of the persons admitted in the mental health establishment.

(*7*) The Authority may cancel the registration of a mental health establishment if recommended by the Board to do so.

Inspection and inquiry.

68. (*1*) The Authority may, *suo motu* or on a complaint received from any person with respect to non-adherence of minimum standards specified by or under this Act or contravention of any provision thereof, order an inspection or inquiry of any mental health establishment, to be made by such person as may be prescribed.

(*2*) The mental health establishment shall be entitled to be represented at such inspection or inquiry.

(*3*) The Authority shall communicate to the mental health establishment the results of such inspection or inquiry and may after ascertaining the opinion of the mental health establishment, order the establishment to make necessary changes within such period as may be specified by it.

(*4*) The mental health establishment shall comply with the order of the Authority made under sub-section (*3*).

(*5*) If the mental health establishment fails to comply with the order of the Authority made under sub-section (*3*), the Authority may cancel the registration of the mental health establishment.

(*6*) The Authority or any person authorised by it may, if there is any reason to suspect that any person is operating a mental health establishment without registration, enter and search in such manner as may be prescribed, and the mental health establishment shall co-operate with such inspection or inquiry and be entitled to be represented at such inspection or inquiry.

Appeal to High Court against order of Authority.

69. Any mental health establishment aggrieved by an order of the Authority refusing to grant registration or renewal of registration or cancellation of registration, may, within a period of thirty days from such order, prefer an appeal to the High Court in the State:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.

Certificates, fees and register of mental health establish-ments.

70. (*1*) Every mental health establishment shall display the certificate of registration in a conspicuous place in the mental health establishment in such manner so as to be visible to everyone visiting the mental health establishment.

(*2*) In case the certificate is destroyed or lost or mutilated or damaged, the Authority may issue a duplicate certificate on the request of the mental health establishment and on the payment of such fees as may be prescribed.

(*3*) The certificate of registration shall be non-transferable and valid in case of change of ownership of the establishment.

(*4*) Any change of ownership of the mental health establishment shall be intimated to the Authority by the new owner within one month from the date of change of ownership.

(*5*) In the event of change of category of the mental health establishment, such establishment shall surrender the certificate of registration to the Authority and the mental health establishment shall apply afresh for grant of certificate of registration in that category.

Maintenance of register of mental health establishment in digital format.

71. The Authority shall maintain in digital format a register of mental health establishments, registered by the Authority, to be called the Register of Mental Health Establishments and shall enter the particulars of the certificate of registration so granted in a separate register to be maintained in such form and manner as may be prescribed.

Duty of mental health establishment to display information.

72. (*1*) Every mental health establishment shall display within the establishment at conspicuous place (including on its website), the contact details including address and telephone numbers of the concerned Board.

(*2*) Every mental health establishment shall provide the person with necessary forms to apply to the concerned Board and also give free access to make telephone calls to the Board to apply for a review of the admission.

CHAPTER XI

MENTAL HEALTH REVIEW BOARDS

Constitution of Mental Health Review Boards.

73. (*1*) The State Authority shall, by notification, constitute Boards to be called the Mental Health Review Boards, for the purposes of this Act.

(*2*) The requisite number, location and the jurisdiction of the Boards shall be specified by the State Authority in consultation with the State Governments concerned.

(*3*) The constitution of the Boards by the State Authority for a district or group of districts in a State under this section shall be such as may be prescribed by the Central Government.

(*4*) While making rules under sub-section (*3*), the Central Government shall have regard to the following, namely:—

(*a*) the expected or actual workload of the Board in the State in which such Board is to be constituted;

(*b*) number of mental health establishments existing in the State;

(*c*) the number of persons with mental illness;

(*d*) population in the district in which the Board is to be constituted;

(*e*) geographical and climatic conditions of the district in which the Board is to be constituted.

Composition of Board.

74. (*1*) Each Board shall consist of—

(*a*) a District Judge, or an officer of the State judicial services who is qualified to be appointed as District Judge or a retired District Judge who shall be chairperson of the Board;

(*b*) representative of the District Collector or District Magistrate or Deputy Commissioner of the districts in which the Board is to be constituted;

(*c*) two members of whom one shall be a psychiatrist and the other shall be a medical practitioner.

(*d*) two members who shall be persons with mental illness or care-givers or persons representing organisations of persons with mental illness or care-givers or non-governmental organisations working in the field of mental health.

(*2*) A person shall be disqualified to be appointed as the chairperson or a member of a Board or be removed by the State Authority, if he—

(*a*) has been convicted and sentenced to imprisonment for an offence which involves moral turpitude; or

(*b*) is adjudged as an insolvent; or

(*c*) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(*d*) has such financial or other interest as is likely to prejudice the discharge of his functions as a member; or

(*e*) has such other disqualifications as may be prescribed by the Central Government.

(*3*) A chairperson or member of a Board may resign his office by notice in writing under his hand addressed to the Chairperson of the State Authority and on such resignation being accepted, the vacancy shall be filled by appointment of a person, belonging to the category under sub-section (*1*) of section 74.

Terms and conditions of service of chairperson and members of Board.

75. (*1*) The chairperson and members of the Board shall hold office for a term of five years or up to the age of seventy years, whichever is earlier and shall be eligible for reappointment for another term of five years or up to the age of seventy years whichever is earlier.

(*2*) The appointment of chairperson and members of every Board shall be made by the Chairperson of the State Authority.

(*3*) The honorarium and other allowances payable to, and the other terms and conditions of service of, the chairperson and members of the Board shall be such as may be prescribed by the Central Government.

Decisions of Authority and Board.

76. (*1*) The decisions of the Authority or the Board, as the case may be, shall be by consensus, failing which by a majority of votes of members present and voting and in the event of equality of votes, the president or the chairperson, as the case may be, shall have a second or casting vote.

(*2*) The quorum of a meeting of the Authority or the Board, as the case may be, shall be three members.

Applications to Board.

77. (*1*) Any person with mental illness or his nominated representative or a representative of a registered non-governmental organisation, with the consent of such a person, being aggrieved by the decision of any of the mental health establishment or whose rights under this Act have been violated, may make an application to the Board seeking redressal or appropriate relief.

(*2*) There shall be no fee or charge levied for making such an application.

(*3*) Every application referred to in sub-section (*1*) shall contain the name of applicant, his contact details, the details of the violation of his rights, the mental health establishment or any other place where such violation took place and the redressal sought from the Board.

(*4*) In exceptional circumstances, the Board may accept an application made orally or over telephone from a person admitted to a mental health establishment.

Proceedings before Board to be judicial proceedings.

78. All proceedings before the Board shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code. 45 of 1860.

Meetings.

79. The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be specified by regulations made by the Central Authority.

Proceedings before Board.

80. (*1*) The Board, on receipt of an application under sub-section (*1*) of section 85, shall, subject to the provisions of this section, endeavour to hear and dispose of the same within a period of ninety days.

(*2*) The Board shall dispose of an application—

(*a*) for appointment of nominated representative under clause (*d*) of sub-section (*4*) of section 14;

(*b*) challenging admission of a minor under section 87;

(*c*) challenging supported admission under sub-section (*10*) or sub-section (*11*) of section 89,

within a period of seven days from the date of receipt of such applications.

(*3*) The Board shall dispose of an application challenging supported admission under section 90 within a period of twenty-one days from the date of receipt of the application.

(*4*) The Board shall dispose of an application, other than an application referred to in sub-section (*3*), within a period of ninety days from the date of filing of the application.

(*5*) The proceeding of the Board shall be held *in camera*.

(*6*) The Board shall not ordinarily grant an adjournment for the hearing.

(*7*) The parties to an application may appear in person or be represented by a counsel or a representative of their choice.

(*8*) In respect of any application concerning a person with mental illness, the Board shall hold the hearings and conduct the proceedings at the mental health establishment where such person is admitted.

(*9*) The Board may allow any persons other than those directly interested with the application, with the permission of the person with mental illness and the chairperson of the Board, to attend the hearing.

(*10*) The person with mental illness whose matter is being heard shall have the right to give oral evidence to the Board, if such person desires to do so.

(*11*) The Board shall have the power to require the attendance and testimony of such other witnesses as it deems appropriate.

(*12*) The parties to a matter shall have the right to inspect any document relied upon by any other party in its submissions to the Board and may obtain copies of the same.

(*13*) The Board shall, within five days of the completion of the hearing, communicate its decision to the parties in writing.

(*14*) Any member who is directly or indirectly involved in a particular case, shall not sit on the Board during the hearings with respect to that case.

Central Authority to appoint Expert Committee to prepare guidance document.

81. (*1*) The Central Authority shall appoint an Expert Committee to prepare a guidance document for medical practitioners and mental health professionals, containing procedures for assessing, when necessary or the capacity of persons to make mental health care or treatment decisions.

(*2*) Every medical practitioner and mental health professional shall, while assessing capacity of a person to make mental healthcare or treatment decisions, comply with the guidance document referred to in sub-section (*1*) and follow the procedure specified therein.

Powers and functions of Board.

82. (*1*) Subject to the provisions of this Act, the powers and functions of the Board shall, include all or any of the following matters, namely:—

(*a*) to register, review, alter, modify or cancel an advance directive;

(*b*) to appoint a nominated representative;

(*c*) to receive and decide application from a person with mental illness or his nominated representative or any other interested person against the decision of medical officer or mental health professional in charge of mental health establishment or mental health establishment under section 87 or section 89 or section 90;

(*d*) to receive and decide applications in respect non-disclosure of information specified under sub-section (*3*) of section 25;

(*e*) to adjudicate complaints regarding deficiencies in care and services specified under section 28;

(*f*) to visit and inspect prison or jails and seek clarifications from the medical officer in-charge of health services in such prison or jail.

(*2*) Where it is brought to the notice of a Board or the Central Authority or State Authority, that a mental health establishment violates the rights of persons with mental illness, the Board or the Authority may conduct an inspection and inquiry and take action to protect their rights.

(*3*) Notwithstanding anything contained in this Act, the Board, in consultation with the Authority, may take measures to protect the rights of persons with mental illness as it considers appropriate.

(*4*) If the mental health establishment does not comply with the orders or directions of the Authority or the Board or wilfully neglects such order or direction, the Authority or the Board, as the case may be, may impose penalty which may extend up to five lakh rupees on such mental health establishment and the Authority on its own or on the recommendations of the Board may also cancel the registration of such mental health establishment after giving an opportunity of being heard.

Appeal to High Court against order of Authority or Board.

83. Any person or establishment aggrieved by the decision of the Authority or a Board may, within a period of thirty days from such decision, prefer an appeal to the High Court of the State in which the Board is situated:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.

Grants by Central Government.

84. (*1*) The Central Government may, make to the Central Authority grants of such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

(*2*) The grants referred to in sub-section (*1*) shall be applied for,—

(*a*) meeting the salary, allowances and other remuneration of the chairperson, members, officers and other employees of the Central Authority;

(*b*) meeting the salary, allowances and other remuneration of the chairperson, members, officers and other employees of the Boards; and

(*c*) the expenses of the Central Authority and the Boards incurred in the discharge of their functions and for the purposes of this Act.

CHAPTER XII

ADMISSION, TREATMENT AND DISCHARGE

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Admission of person with mental illness as independent patient in mental health establishment.

85. (*1*) For the purposes of this Act, "independent patient or an independent admission" refers to the admission of person with mental illness, to a mental health establishment, who has the capacity to make mental healthcare and treatment decisions or requires minimal support in making decisions.

(*2*) All admissions in the mental health establishment shall, as far as possible, be independent admissions except when such conditions exist as make supported admission unavoidable.

Independent admission and treatment.

86. (*1*) Any person, who is not a minor and who considers himself to have a mental illness and desires to be admitted to any mental health establishment for treatment may request the medical officer or mental health professional in charge of the establishment to be admitted as an independent patient.

(*2*) On receipt of such request under sub-section (*1*), the medical officer or mental health professional in charge of the establishment shall admit the person to the establishment if the medical officer or mental health professional is satisfied that—

(*a*) the person has a mental illness of a severity requiring admission to a mental health establishment;

(*b*) the person with mental illness is likely to benefit from admission and treatment to the mental health establishment;

(*c*) the person has understood the nature and purpose of admission to the mental health establishment, and has made the request for admission of his own free will, without any duress or undue influence and has the capacity to make mental healthcare and treatment decisions without support or requires minimal support from others in making such decisions.

(*3*) If a person is unable to understand the purpose, nature, likely effects of proposed treatment and of the probable result of not accepting the treatment or requires a very high level of support approaching hundred per cent. support in making decisions, he or she shall be deemed unable to understand the purpose of the admission and therefore shall not be admitted as independent patient under this section.

(*4*) A person admitted as an independent patient to a mental health establishment shall be bound to abide by order and instructions or bye-laws of the mental health establishment.

(*5*) An independent patient shall not be given treatment without his informed consent.

(*6*) The mental health establishment shall admit an independent patient on his own request, and shall not require the consent or presence of a nominated representative or a relative or care-giver for admitting the person to the mental health establishment.

(*7*) Subject to the provisions contained in section 88 an independent patient may get himself discharged from the mental health establishment without the consent of the medical officer or mental health professional in charge of such establishment.

Admission of minor.

87. (*1*) A minor may be admitted to a mental health establishment only after following the procedure laid down in this section.

(*2*) The nominated representative of the minor shall apply to the medical officer in charge of a mental health establishment for admission of the minor to the establishment.

(*3*) Upon receipt of such an application, the medical officer or mental health professional in charge of the mental health establishment may admit such a minor to the establishment, if two psychiatrists, or one psychiatrist and one mental health professional or one psychiatrist and one medical practitioner, have independently examined the minor on the day of admission or in the preceding seven days and both independently conclude based on the examination and, if appropriate, on information provided by others, that,—

(*a*) the minor has a mental illness of a severity requiring admission to a mental health establishment;

(*b*) admission shall be in the best interests of the minor, with regard to his health, well-being or safety, taking into account the wishes of the minor if ascertainable and the reasons for reaching this decision;

(*c*) the mental healthcare needs of the minor cannot be fulfilled unless he is admitted; and

(*d*) all community based alternatives to admission have been shown to have failed or are demonstrably unsuitable for the needs of the minor.

(*4*) A minor so admitted shall be accommodated separately from adults, in an environment that takes into account his age and developmental needs and is at least of the same quality as is provided to other minors admitted to hospitals for other medical treatments.

(*5*) The nominated representative or an attendant appointed by the nominated representative shall under all circumstances stay with the minor in the mental health establishment for the entire duration of the admission of the minor to the mental health establishment.

(*6*) In the case of minor girls, where the nominated representative is male, a female attendant shall be appointed by the nominated representative and under all circumstances shall stay with the minor girl in the mental health establishment for the entire duration of her admission.

(*7*) A minor shall be given treatment with the informed consent of his nominated representative.

(*8*) If the nominated representative no longer supports admission of the minor under this section or requests discharge of the minor from the mental health establishment, the minor shall be discharged by the mental health establishment.

(*9*) Any admission of a minor to a mental health establishment shall be informed by the medical officer or mental health professional in charge of the mental health establishment to the concerned Board within a period of seventy-two hours.

(*10*) The concerned Board shall have the right to visit and interview the minor or review the medical records if the Board desires to do so.

(*11*) Any admission of a minor which continues for a period of thirty days shall be immediately informed to the concerned Board.

(*12*) The concerned Board shall carry out a mandatory review within a period of seven days of being informed, of all admissions of minors continuing beyond thirty days and every subsequent thirty days.

(*13*) The concerned Board shall at minimum, review the clinical records of the minor and may interview the minor if necessary.

Discharge of independent patients.

88. (*1*) The medical officer or mental health professional in charge of a mental health establishment shall discharge from the mental health establishment any person admitted under section 86 as an independent patient immediately on request made by such person or if the person disagrees with his admission under section 86 subject to the provisions of sub-section (*3*).

(*2*) Where a minor has been admitted to a mental health establishment under section 87 and attains the age of eighteen years during his stay in the mental health establishment, the medical officer in charge of the mental health establishment shall classify him as an independent patient under section 86 and all provisions of this Act as applicable to independent patient who is not minor, shall apply to such person.

(*3*) Notwithstanding anything contained in this Act, a mental health professional may prevent discharge of a person admitted as an independent person under section 86 for a period of twenty-four hours so as to allow his assessment necessary for admission under section 89 if the mental health professional is of the opinion that—

(*a*) such person is unable to understand the nature and purpose of his decisions and requires substantial or very high support from his nominated representative; or

(*b*) has recently threatened or attempted or is threatening or attempting to cause bodily harm to himself; or

(*c*) has recently behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm from him; or

(*d*) has recently shown or is showing an inability to care for himself to a degree that places the individual at risk of harm to himself.

(*4*) The person referred to in sub-section (*3*) shall be either admitted as a supported patient under section 89, or discharged from the establishment within a period of twenty-four hours or on completion of assessments for admission for a supported patient under section 89, whichever is earlier.

Admission and treatment of persons with mental illness, with high support needs, in mental health establishment, up to thirty days (supported admission).

89. (*1*) The medical officer or mental health professional in charge of a mental health establishment shall admit every such person to the establishment, upon application by the nominated representative of the person, under this section, if—

(*a*) the person has been independently examined on the day of admission or in the preceding seven days, by one psychiatrist and the other being a mental health professional or a medical practitioner, and both independently conclude based on the examination and, if appropriate, on information provided by others, that the person has a mental illness of such severity that the person,—

(*i*) has recently threatened or attempted or is threatening or attempting to cause bodily harm to himself; or

(*ii*) has recently behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm from him; or

(*iii*) has recently shown or is showing an inability to care for himself to a degree that places the individual at risk of harm to himself;

(*b*) the psychiatrist or the mental health professionals or the medical practitioner, as the case may be, certify, after taking into account an advance directive, if any, that admission to the mental health establishment is the least restrictive care option possible in the circumstances; and

(*c*) the person is ineligible to receive care and treatment as an independent patient because the person is unable to make mental healthcare and treatment decisions independently and needs very high support from his nominated representative in making decisions.

(*2*) The admission of a person with mental illness to a mental health establishment under this section shall be limited to a period of thirty days.

(*3*) At the end of the period mentioned under sub-section (*2*), or earlier, if the person no longer meets the criteria for admission as stated in sub-section (*1*), the patient shall no longer remain in the establishment under this section.

(*4*) On the expiry of the period of thirty days referred to in sub-section (*2*), the person may continue to remain admitted in the mental health establishment in accordance with the provisions of section 90.

(*5*) If the conditions under section 90 are not met, the person may continue to remain in the mental health establishment as an independent patient under section 86 and the medical officer or mental health professional in charge of the mental health establishment shall inform the person of his admission status under this Act, including his right to leave the mental health establishment.

(*6*) Every person with mental illness admitted under this section shall be provided treatment after taking into account,—

(*a*) an advance directive if any; or

(*b*) informed consent of the patient with the support of his nominated representative subject to the provisions of sub-section (*7*).

(*7*) If a person with the mental illness admitted under this section requires nearly hundred per cent. support from his nominated representative in making a decision in respect of his treatment, the nominated representative may temporarily consent to the treatment plan of such person on his behalf.

(*8*) In case where consent has been given under sub-section (*7*), the medical officer or mental health professional in charge of the mental health establishment shall record such consent in the medical records and review the capacity of the patient to give consent every seven days.

(*9*) The medical officer or mental health professional in charge of the mental health establishment shall report the concerned Board,—

(*a*) within three days the admissions of a woman or a minor;

(*b*) within seven days the admission of any person not being a woman or minor.

(*10*) A person admitted under this section or his nominated representative or a representative of a registered non-governmental organisation with the consent of the person, may apply to the concerned Board for review of the decision of the medical officer or mental health professional in charge of the mental health establishment to admit the person to the mental health establishment under this section.

(*11*) The concerned Board shall review the decision of the medical officer or mental health professional in charge of the mental health establishment and give its findings thereon within seven days of receipt of request for such review which shall be binding on all the concerned parties.

(*12*) Notwithstanding anything contained in this Act, it shall be the duty of the medical officer or mental health professional in charge of the mental health establishment to keep the condition of the person with mental illness admitted under this section on going review.

(*13*) If the medical officer or mental health professional in charge of the mental health establishment is of the opinion that the conditions specified under sub-section (*1*) are no longer applicable, he shall terminate the admission under this section, and inform the person and his nominated representative accordingly.

(*14*) Non applicability of conditions referred to in sub-section (*13*) shall not preclude the person with mental illness remaining as an independent patient.

(*15*) In a case, a person with the mental illness admitted under this section has been discharged, such person shall not be readmitted under this section within a period of seven days from the date of his discharge.

(*16*) In case a person referred to in sub-section (*15*) requires readmission within a period of seven days referred to in that sub-section, such person shall be considered for readmission in accordance with the provisions of section 90.

(*17*) If the medical officer or mental health professional in charge of the mental health establishment is of the opinion that the person with mental illness admitted under this section in the mental health establishment requires or is likely to require further treatment beyond the period of thirty days, then such medical officer or mental health professional shall be duty bound to refer the matter to be examined by two psychiatrists for his admission beyond thirty days.

Admission and treatment of persons with mental illness, with high support needs, in mental health establishment, beyond thirty days (supported admission beyond thirty days).

90. (*1*) If a person with mental illness admitted under section 89 requires continuous admission and treatment beyond thirty days or a person with mental illness discharged under sub-section (*15*) of that section requires readmission within seven days of such discharge, he shall be admitted in accordance with the provisions of this section.

(*2*) The medical officer or mental health professional in charge of a mental health establishment, upon application by the nominated representative of a person with mental illness, shall continue admission of such person with mental illness, if—

(*a*) two psychiatrists have independently examined the person with mental illness in the preceding seven days and both independently conclude based on the examination and, on information provided by others that the person has a mental illness of a severity that the person—

(*i*) has consistently over time threatened or attempted to cause bodily harm to himself; or

(*ii*) has consistently over time behaved violently towards another person or has consistently over time caused another person to fear bodily harm from him; or

(*iii*) has consistently over time shown an inability to care for himself to a degree that places the individual at risk of harm to himself;

(*b*) both psychiatrists, after taking into account an advance directive, if any, certify that admission to a mental health establishment is the least restrictive care option possible under the circumstances; and

(*c*) the person continues to remain ineligible to receive care and treatment as a independent patient as the person cannot make mental healthcare and treatment decisions independently and needs very high support from his nominated representative, in making decisions.

(*3*) The medical officer or mental health professional in charge of the mental health establishment shall report all admissions or readmission under this section, within a period of seven days of such admission or readmission, to the concerned Board.

(*4*) The Board shall, within a period of twenty-one days from the date of last admission or readmission of person with mental illness under this section, permit such admission or readmission or order discharge of such person.

(*5*) While permitting admission or readmission or ordering discharge of such person under sub-section (*4*), the Board shall examine—

(*a*) the need for institutional care to such person;

(*b*) whether such care cannot be provided in less restrictive settings based in the community.

(*6*) In all cases of application for readmission or continuance of admission of a person with mental illness in the mental health establishment under this section, the Board may require the medical officer or psychiatrist in charge of treatment of such person with mental illness to submit a plan for community based treatment and the progress made, or likely to be made, towards realising this plan.

(*7*) The person referred to in sub-section (*4*) shall not be permitted to continue in the mental health establishment in which he had been admitted or his readmission in such establishment merely on the ground of non-existence of community based services at the place where such person ordinarily resides.

(*8*) The admission of a person with mental illness to a mental health establishment under this section shall be limited to a period up to ninety days in the first instance.

(*9*) The admission of a person with mental illness to a mental health establishment under this section beyond the period of ninety days may be extended for a period of one hundred and twenty days at the first instance and thereafter for a period of one hundred and eighty days each time after complying with the provisions of sub-sections (*1*) to (*7*).

(*10*) If the Board refuses to permit admission or continuation thereof or readmission under sub-section (*9*), or on the expiry of the periods referred to in sub-section (*9*) or earlier if such person no longer falls within the criteria for admission under sub-section (*1*), such person shall be discharged from such mental health establishment.

(*11*) Every person with mental illness admitted under this section shall be provided treatment, after taking into account—

(*a*) an advance directive; or

(*b*) informed consent of the person with the support from his nominated representative subject to the provision of sub-section (*12*).

(*12*) If a person with mental illness admitted under this section, requires nearly hundred per cent. support from his nominated representative, in making decision in respect of his treatment, the nominated representative may temporarily consent to the treatment plan of such person on his behalf.

(*13*) In a case where consent has been given under sub-section (*12*), the medical officer or mental health professional in charge of the mental health establishment shall record such consent in the medical records of such person with mental illness and review on the expiry of every fortnight, the capacity of such person to give consent.

(*14*) A person with mental illness admitted under this section, or his nominated representative or a representative of a registered non-governmental organisation with the consent of the person, may apply to the concerned Board for review of the decision of the medical officer or mental health professional in charge of medical health establishment to

admit such person in such establishment and the decision of the Board thereon shall be binding on all parties.

(*15*) Notwithstanding anything contained in this Act, if the medical officer or mental health professional in charge of the mental health establishment is of the opinion that the conditions under sub-section (*1*) are no longer applicable, such medical officer or mental health professional shall discharge such person from such establishment and inform such person and his nominated representative accordingly.

(*16*) The person with mental illness referred to in sub-section (*15*) may continue to remain in the mental health establishment as an independent patient.

Leave of absence.

91. The medical officer or mental health professional in charge of the mental health establishment may grant leave to any person with mental illness admitted under section 87 or section 89 or section 90, to be absent from the establishment subject to such conditions, if any, and for such duration as such medical officer or psychiatrist may consider necessary.

Absence without leave or discharge.

92. If any person to whom section 103 applies absents himself without leave or without discharge from the mental health establishment, he shall be taken into protection by any Police Officer at the request of the medical officer or mental health professional in-charge of the mental health establishment and shall be sent back to the mental health establishment immediately.

Transfer of persons with mental illness from one mental health establishment to another mental health establishment.

93. (*1*) A person with mental illness admitted to a mental health establishment under section 87 or section 89 or section 90 or section 103, as the case may be, may subject to any general or special order of the Board be removed from such mental health establishment and admitted to another mental health establishment within the State or with the consent of the Central Authority to any mental health establishment in any other State:

Provided that no person with mental illness admitted to a mental health establishment under an order made in pursuance of an application made under this Act shall be so removed unless intimation and reasons for the transfer have been given to the person with mental illness and his nominated representative.

(*2*) The State Government may make such general or special order as it thinks fit directing the removal of any prisoner with mental illness from the place where he is for the time being detained, to any mental health establishment or other place of safe custody in the State or to any mental health establishment or other place of safe custody in any other State with the consent of the Government of that other State.

Emergency treatment.

94. (*1*) Notwithstanding anything contained in this Act, any medical treatment, including treatment for mental illness, may be provided by any registered medical practitioner to a person with mental illness either at a health establishment or in the community, subject to the informed consent of the nominated representative, where the nominated representative is available, and where it is immediately necessary to prevent—

(*a*) death or irreversible harm to the health of the person; or

(*b*) the person inflicting serious harm to himself or to others; or

(*c*) the person causing serious damage to property belonging to himself or to others where such behaviour is believed to flow directly from the person's mental illness.

Explanation.—For the purposes of this section, "emergency treatment" includes transportation of the person with mental illness to a nearest mental health establishment for assessment.

(*2*) Nothing in this section shall allow any medical officer or psychiatrist to give to the person with mental illness medical treatment which is not directly related to the emergency treatment specified under sub-section (*1*).

(*3*) Nothing in this section shall allow any medical officer or psychiatrist to use electro-convulsive therapy as a form of treatment.

(*4*) The emergency treatment referred to in this section shall be limited to seventy-two hours or till the person with mental illness has been assessed at a mental health establishment, whichever is earlier:

Provided that during a disaster or emergency declared by the appropriate Government, the period of emergency treatment referred to in this sub-section may extend up to seven days.

Prohibited procedures.

95. (*1*) Notwithstanding anything contained in this Act, the following treatments shall not be performed on any person with mental illness—

(*a*) electro-convulsive therapy without the use of muscle relaxants and anaesthesia;

(*b*) electro-convulsive therapy for minors;

(c) sterilisation of men or women, when such sterilisation is intended as a treatment for mental illness;

(*d*) chained in any manner or form whatsoever.

(*2*) Notwithstanding anything contained in sub-section (*1*), if, in the opinion of psychiatrist in charge of a minor's treatment, electro-convulsive therapy is required, then, such treatment shall be done with the informed consent of the guardian and prior permission of the concerned Board.

Restriction on psychosurgery for persons with mental illness.

96. *(1)* Notwithstanding anything contained in this Act, psychosurgery shall not be performed as a treatment for mental illness unless—

(*a*) the informed consent of the person on whom the surgery is being performed; and

(*b*) approval from the concerned Board to perform the surgery,

has been obtained.

(*2*) The Central Authority may make regulations for the purpose of carrying out the provisions of this section.

Restraints and seclusion.

97. (*1*) A person with mental illness shall not be subjected to seclusion or solitary confinement, and, where necessary, physical restraint may only be used when,—

(*a*) it is the only means available to prevent imminent and immediate harm to person concerned or to others;

(*b*) it is authorised by the psychiatrist in charge of the person's treatment at the mental health establishment.

(*2*) Physical restraint shall not be used for a period longer than it is absolutely necessary to prevent the immediate risk of significant harm.

(*3*) The medical officer or mental health professional in charge of the mental health establishment shall be responsible for ensuring that the method, nature of restraint justification for its imposition and the duration of the restraint are immediately recorded in the person's medical notes.

(*4*) The restraint shall not be used as a form of punishment or deterrent in any circumstance and the mental health establishment shall not use restraint merely on the ground of shortage of staff in such establishment.

(*5*) The nominated representative of the person with mental illness shall be informed about every instance of restraint within a period of twenty-four hours.

(*6*) A person who is placed under restraint shall be kept in a place where he can cause no harm to himself or others and under regular ongoing supervision of the medical personnel at the mental health establishment.

(*7*) The mental health establishment shall include all instances of restraint in the report to be sent to the concerned Board on a monthly basis.

(*8*) The Central Authority may make regulations for the purpose of carrying out the provisions of this section.

(*9*) The Board may order a mental health establishment to desist from applying restraint if the Board is of the opinion that the mental health establishment is persistently and wilfully ignoring the provisions of this section.

Discharge planning.

98. (*1*) Whenever a person undergoing treatment for mental illness in a mental health establishment is to be discharged into the community or to a different mental health establishment or where a new psychiatrist is to take responsibility of the person's care and treatment, the psychiatrist who has been responsible for the person's care and treatment shall consult with the person with mental illness, the nominated representative, the family member or care-giver with whom the person with mental illness shall reside on discharge from the hospital, the psychiatrist expected to be responsible for the person's care and treatment in the future, and such other persons as may be appropriate, as to what treatment or services would be appropriate for the person.

(*2*) The psychiatrist responsible for the person's care shall in consultation with the persons referred to in sub-section (*1*) ensure that a plan is developed as to how treatment or services shall be provided to the person with mental illness.

(*3*) The discharge planning under this section shall apply to all discharges from a mental health establishment.

Research.

99. (*1*) The professionals conducting research shall obtain free and informed consent from all persons with mental illness for participation in any research involving interviewing the person or psychological, physical, chemical or medicinal interventions.

(*2*) In case of research involving any psychological, physical, chemical or medicinal interventions to be conducted on person who is unable to give free and informed consent but does not resist participation in such research, permission to conduct such research shall be obtained from concerned State Authority.

(*3*) The State Authority may allow the research to proceed based on informed consent being obtained from the nominated representative of persons with mental illness, if the State Authority is satisfied that—

(*a*) the proposed research cannot be performed on persons who are capable of giving free and informed consent;

(*b*) the proposed research is necessary to promote the mental health of the population represented by the person;

(*c*) the purpose of the proposed research is to obtain knowledge relevant to the particular mental health needs of persons with mental illness;

(*d*) a full disclosure of the interests of persons and organisations conducting the proposed research is made and there is no conflict of interest involved; and

(*e*) the proposed research follows all the national and international guidelines and regulations concerning the conduct of such research and ethical approval has been obtained from the institutional ethics committee where such research is to be conducted.

(*4*) The provisions of this section shall not restrict research based study of the case notes of a person who is unable to give informed consent, so long as the anonymity of the persons is secured.

(*5*) The person with mental illness or the nominated representative who gives informed consent for participation in any research under this Act may withdraw the consent at any time during the period of research.

CHAPTER XIII

RESPONSIBILITIES OF OTHER AGENCIES

Duties of police officers in respect of persons with mental illness.

100. (*1*) Every officer in-charge of a police station shall have a duty—

(*a*) to take under protection any person found wandering at large within the limits of the police station whom the officer has reason to believe has mental illness and is incapable of taking care of himself; or

(*b*) to take under protection any person within the limits of the police station whom the officer has reason to believe to be a risk to himself or others by reason of mental illness.

(*2*) The officer in-charge of a police station shall inform the person who has been taken into protection under sub-section (*1*), the grounds for taking him into such protection or his nominated representative, if in the opinion of the officer such person has difficulty in understanding those grounds.

(*3*) Every person taken into protection under sub-section (*1*) shall be taken to the nearest public health establishment as soon as possible but not later than twenty-four hours from the time of being taken into protection, for assessment of the person's healthcare needs.

(*4*) No person taken into protection under sub-section (*1*) shall be detained in the police lock up or prison in any circumstances.

(*5*) The medical officer in-charge of the public health establishment shall be responsible for arranging the assessment of the person and the needs of the person with mental illness will be addressed as per other provisions of this Act as applicable in the particular circumstances.

(*6*) The medical officer or mental health professional in-charge of the public mental health establishment if on assessment of the person finds that such person does not have a mental illness of a nature or degree requiring admission to the mental health establishment, he shall inform his assessment to the police officer who had taken the person into protection and the police officer shall take the person to the person's residence or in case of homeless persons, to a Government establishment for homeless persons.

(*7*) In case of a person with mental illness who is homeless or found wandering in the community, a First Information Report of a missing person shall be lodged at the concerned police station and the station house officer shall have a duty to trace the family of such person and inform the family about the whereabouts of the person.

Report to Magistrate of person with mental illness in private residence who is ill-treated or neglected.

101. (*1*) Every officer in-charge of a police station, who has reason to believe that any person residing within the limits of the police station has a mental illness and is being ill-treated or neglected, shall forthwith report the fact to the Magistrate within the local limits of whose jurisdiction the person with mental illness resides.

(*2*) Any person who has reason to believe that a person has mental illness and is being ill-treated or neglected by any person having responsibility for care of such person, shall report the fact to the police officer in-charge of the police station within whose jurisdiction the person with mental illness resides.

(*3*) If the Magistrate has reason to believe based on the report of a police officer or otherwise, that any person with mental illness within the local limits of his jurisdiction is being ill-treated or neglected, the Magistrate may cause the person with mental illness to be produced before him and pass an order in accordance with the provisions of section 102.

Conveying or admitting person with mental illness to mental health establishment by Magistrate.

102. (*1*) When any person with mental illness or who may have a mental illness appears or is brought before a Magistrate, the Magistrate may, order in writing—

(*a*) that the person is conveyed to a public mental health establishment for assessment and treatment, if necessary and the mental health establishment shall deal with such person in accordance with the provisions of the Act; or

(*b*) to authorise the admission of the person with mental illness in a mental health establishment for such period not exceeding ten days to enable the medical officer or mental health professional in charge of the mental health establishment to carry out an assessment of the person and to plan for necessary treatment, if any.

(*2*) On completion of the period of assessment referred to in sub-section (*1*), the medical officer or mental health professional in charge of the mental health establishment shall submit a report to the Magistrate and the person shall be dealt with in accordance with the provisions of this Act.

Prisoners with mental illness.

103. (*1*) An order under section 30 of the Prisoners Act, 1900 or under section 144 of the Air Force Act, 1950, or under section 145 of the Army Act, 1950, or under section 143 or section 144 of the Navy Act, 1957, or under section 330 or section 335 of the Code of Criminal Procedure, 1973, directing the admission of a prisoner with mental illness into any suitable mental health establishment, shall be sufficient authority for the admission of such person in such establishment to which such person may be lawfully transferred for care and treatment therein:

3 of 1900.
45 of 1950.
46 of 1950.
62 of 1957.
2 of 1974.

Provided that transfer of a prisoner with mental illness to the psychiatric ward in the medical wing of the prison shall be sufficient to meet the requirements under this section:

Provided further that where there is no provision for a psychiatric ward in the medical wing, the prisoner may be transferred to a mental health establishment with prior permission of the Board.

(*2*) The method, modalities and procedure by which the transfer of a prisoner under this section is to be effected shall be such as may be prescribed.

(3) The medical officer of a prison or jail shall send a quarterly report to the concerned Board certifying therein that there are no prisoners with mental illness in the prison or jail.

(*4*) The Board may visit the prison or jail and ask the medical officer as to why the prisoner with mental illness, if any, has been kept in the prison or jail and not transferred for treatment to a mental health establishment.

(*5*) The medical officer in-charge of a mental health establishment wherein any person referred to in sub-section (*1*) is detained, shall once in every six months, make a special report regarding the mental and physical condition of such person to the authority under whose order such person is detained.

(*6*) The appropriate Government shall setup mental health establishment in the medical wing of at least one prison in each State and Union territory and prisoners with mental illness may ordinarily be referred to and cared for in the said mental health establishment.

(*7*) The mental health establishment setup under sub-section (*5*) shall be registered under this Act with the Central or State Mental Health Authority, as the case may be, and shall conform to such standards and procedures as may be prescribed.

Persons in custodial institutions.

104. (*1*) If it appears to the person in-charge of a State run custodial institution (including beggars homes, orphanages, women's protection homes and children homes) that any resident of the institution has, or is likely to have, a mental illness, then, he shall take such resident of the institution to the nearest mental health establishment run or funded by the appropriate Government for assessment and treatment, as necessary.

(*2*) The medical officer in-charge of a mental health establishment shall be responsible for assessment of the person with mental illness, and the treatment required by such persons shall be decided in accordance with the provisions of this Act.

Question of mental illness in judicial process.

105. If during any judicial process before any competent court, proof of mental illness is produced and is challenged by the other party, the court shall refer the same for further scrutiny to the concerned Board and the Board shall, after examination of the person alleged to have a mental illness either by itself or through a committee of experts, submit its opinion to the court.

CHAPTER XIV

RESTRICTION TO DISCHARGE FUNCTIONS BY PROFESSIONALS NOT COVERED BY PROFESSION

Restriction to discharge functions by professionals not covered by profession.

106. No mental health professional or medical practitioner shall discharge any duty or perform any function not authorised by this Act or specify or recommend any medicine or treatment not authorised by the field of his profession.

CHAPTER XV

OFFENCES AND PENALTIES

Penalties for establishing or maintaining mental health establishment in contravention of provisions of this Act.

107. (*1*) Whoever carries on a mental health establishment without registration shall be liable to a penalty which shall not be less than five thousand rupees but which may extend to fifty thousand rupees for first contravention or a penalty which shall not be less than fifty thousand rupees but which may extend to two lakh rupees for a second contravention or a penalty which shall not be less than two lakh rupees but which may extend to five lakh rupees for every subsequent contravention.

(2) Whoever knowingly serves in the capacity as a mental health professional in a mental health establishment which is not registered under this Act, shall be liable to a penalty which may extend to twenty-five thousand rupees.

(*3*) Save as otherwise provided in this Act, the penalty under this section shall be adjudicated by the State Authority.

(*4*) Whoever fails to pay the amount of penalty, the State Authority may forward the order to the Collector of the district in which such person owns any property or resides or carries on his business or profession or where the mental health establishment is situated, and the Collector shall recover from such persons or mental health establishment the amount specified thereunder, as if it were an arrear of land revenue.

(*5*) All sums realised by way of penalties under this Chapter shall be credited to the Consolidated Fund of India.

Punishment for contravention of provisions of the Act or rules or regulations made thereunder.

108. Any person who contravenes any of the provisions of this Act, or of any rule or regulation made thereunder shall for first contravention be punishable with imprisonment for a term which may extend to six months, or with a fine which may extend to ten thousand rupees or with both, and for any subsequent contravention with imprisonment for a term which may extend to two years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees or with both.

Offences by companies.

109. (*1*) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in-charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

CHAPTER XVI

MISCELLANEOUS

Power to call for information.

110. (*1*) The Central Government may, by a general or special order, call upon the Authority or the Board to furnish, periodically or as and when required any information concerning the activities carried on by the Authority or the Board, as the case may be, in such form as may be prescribed, to enable that Government, to carry out the purposes of this Act.

(*2*) The State Government may, by a general or special order, call upon the State Authority or the Board to furnish, periodically or as and when required any information concerning the activities carried on by the State Authority or the Board in such form as may be prescribed, to enable that Government, to carry out the purposes of this Act.

Power of Central Government to issue directions.

111. (*1*) Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(*2*) The decision of the Central Government whether a question is one of policy or not shall be final.

Power of Central Government to supersede Central Authority.

112. (*1*) If at any time the Central Government is of the opinion—

(*a*) that on account of circumstances beyond the control of the Central Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(*b*) that the Central Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act; or

(*c*) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification and for reasons to be specified therein, supersede the Central Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Central Authority to make representations against the proposed supersession and shall consider representations, if any, of the Central Authority.

(*2*) Upon the publication of a notification under sub-section (*1*), superseding the Central Authority,—

(*a*) the chairperson and other members shall, as from the date of supersession, vacate their offices as such;

(*b*) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Central Authority shall, until the Central Authority is reconstituted under sub-section (*3*), be exercised and discharged by the Central Government or such authority as the Central Government may specify in this behalf;

(*c*) all properties owned or controlled by the Central Authority shall, until the Central Authority is reconstituted under sub-section (*3*), vest in the Central Government.

(*3*) On or before the expiration of the period of supersession specified in the notification issued under sub-section (*1*), the Central Government shall reconstitute the Central Authority by a fresh appointment of its chairperson and other members and in such case any person who had vacated his office under clause (*a*) of sub-section (*2*) shall not be deemed to be disqualified for re-appointment.

(*4*) The Central Government shall cause a notification issued under sub-section (*1*) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Power of State Government to supersede State Authority.

113. (*1*) If at any time the State Government is of the opinion—

(*a*) that on account of circumstances beyond the control of the State Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(*b*) that the State Authority has persistently defaulted in complying with any direction given by the State Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act; or

(*c*) that circumstances exist which render it necessary in the public interest so to do,

the State Government may, by notification and for reasons to be specified therein, supersede the State Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing any such notification, the State Government shall give a reasonable opportunity to the State Authority to make representations against the proposed supersession and shall consider representations, if any, of the State Authority.

(*2*) Upon the publication of a notification under sub-section (*1*) superseding the State Authority,—

(*a*) the chairperson and other members shall, as from the date of supersession, vacate their offices as such;

(*b*) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the State Authority shall, until the State Authority is reconstituted under sub-section (*3*), be exercised and discharged by the State Government or such authority as the State Government may specify in this behalf;

(*c*) all properties owned or controlled by the State Authority shall, until the State Authority is reconstituted under sub-section (*3*), vest in the State Government.

(*3*) On or before the expiration of the period of supersession specified in the notification issued under sub-section (*1*), the State Government shall reconstitute the State Authority by a fresh appointment of its chairperson and other members and in such case any person who had vacated his office under clause (*a*) of sub-section (*2*) shall not be deemed to be disqualified for re-appointment.

(*4*) The State Government shall cause a notification issued under sub-section (*1*) and a full report of any action taken under this section and the circumstances leading to such action to be laid before the State Legislature at the earliest.

Special provisions for States in north-east and hill States.

114. (*1*) Notwithstanding anything contained in this Act, the provisions of this Act shall, taking into consideration the communication, travel and transportation difficulties, apply to the States of Assam, Meghalaya, Tripura, Mizoram, Manipur, Nagaland, Arunachal Pradesh and Sikkim, with following modifications, namely:—

(*a*) under sub-section (*3*) of section 73, the chairperson of the Central Authority may constitute one or more Boards for all the States;

(*b*) in sub-section (*2*) of section 80, reference to the period of "seven days", and in sub-section (*3*) of that section, reference to the period of "twenty-one days" shall be construed as "ten days" and "thirty days", respectively;

(*c*) in sub-section (*9*) of section 87, reference to the period of "seventy-two hours" shall be construed as "one hundred twenty hours", and in sub-sections (*3*) and (*12*) of that section, reference to a period of "seven days" shall be construed as "ten days";

(*d*) in sub-section (*3*) of section 88, reference to the period of "twenty-four hours" shall be construed as "seventy-two hours";

(*e*) in clauses (*a*) and (*b*) of sub-section (*9*) of section 89, reference to the period of "three days" and "seven days" shall be construed as "seven days" and "ten days" respectively;

(*f*) in sub-section (*3*) of section 90, reference to the period of "seven days" and in sub-section (*4*) of that section, reference to the period of "twenty-one days" shall be construed as "ten days" and "thirty days" respectively;

(*g*) in sub-section (*4*) of section 94, reference to the period of "seventy-two hours" shall be construed as "one hundred twenty hours".

(*2*) The provisions of clauses (*b*) to (*g*) of sub-section (*1*) shall also apply to the States of Uttarakhand, Himachal Pradesh and Jammu and Kashmir and the Union territories of Lakshadweep and Andaman and Nicobar Islands.

(*3*) The provisions of this section shall cease to have effect on the expiry of a period of ten years from the commencement of this Act, except as respects things done or omitted to be done before such cesser, and upon such cesser section 6 of the General Clauses Act, 1897, shall apply as if this Act had then been repealed by a Central Act. 10 of 1897.

Presumption of severe stress in case of attempt to commit suicide.

115. (*1*) Notwithstanding anything contained in section 309 of the Indian Penal Code any person who attempts to commit suicide shall be presumed, unless proved otherwise, to have severe stress and shall not be tried and punished under the said Code. 45 of 1860.

(*2*) The appropriate Government shall have a duty to provide care, treatment and rehabilitation to a person, having severe stress and who attempted to commit suicide, to reduce the risk of recurrence of attempt to commit suicide.

Bar of jurisdiction.

116. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Authority or the Board is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Transitory provisions.

117. The Central Government may, if it considers so necessary in the interest of persons with mental illness being governed by the Mental Health Act, 1987, take appropriate interim measures by making necessary transitory schemes.

14 of 1987.

Chairperson, members and staff of Authority and Board to be public servants.

118. The chairperson, and other members and the officers and other employees of the Authority and Board shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Protection of action taken in good faith.

119. No suit, prosecution or other legal proceeding shall lie against the appropriate Government or against the chairperson or any other member of the Authority or the Board, as the case may be, for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or regulation made thereunder in the discharge of official duties.

Act to have overriding effect.

120. The provisions of this Act shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Power of Central Government and State Governments to make rules.

121. (*1*) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(*2*) Subject to the provisions of sub-section (*1*), the State Government may, with the previous approval of the Central Government, by notification, make rules for carrying out the provisions of this Act:

Provided that the first rules shall be made by the Central Government, by notification.

(*3*) In particular, and without prejudice to the generality of the foregoing power, rules made under sub-section (*1*) may provide for all or any of the following matters, namely:—

(*a*) qualifications relating to clinical psychologist under sub-clause (*ii*) of clause (*f*) of sub-section (*1*) of section 2;

(*b*) qualifications relating to psychiatric social worker under clause (*w*) of sub-section (*1*) of section 2;

(c) the manner of nomination of members of the Central Authority under sub-section (*2*) of section 34;

(*d*) the salaries and allowances payable to, and the other terms and conditions of service of, the chairperson and other members of the Central Authority under sub-section (*3*) of section 35;

(*e*) the procedure for registration (including the fees to be levied for such registration) of the mental health establishments under sub-section (*2*) of section 43;

(*f*) the manner of nomination of members of the State Authority under sub-section (*2*) of section 46;

(*g*) the salaries and allowances payable to, and the other terms and conditions of service of, the chairperson and other members of the State Authority under sub-section (*3*) of section 47;

(*h*) the procedure for registration (including the fees to be levied for such registration) of the mental health establishments under sub-section (*2*) of section 55;

(*i*) the form of accounts and other relevant records and annual statement of accounts under sub-section (*1*) of section 59;

(*j*) the form in, and the time within which, an annual report shall be prepared under section 60;

(*k*) the form of accounts and other relevant records and annual statement of accounts under sub-section (*1*) of section 63;

(*l*) the form in, and the time within which, an annual report shall be prepared under section 64;

(*m*) manner of constitution of the Board by the State Authority for a district or groups of districts in a State;

(*n*) other disqualifications of chairperson or members of the Board under clause (*e*) of sub-section (*2*) of section 82;

(*o*) any other matter which is required to be, or may be, specified by rules or in respect for which provision is to be made by rules.

(*4*) In particular, and without prejudice to the generality of the foregoing power, rules made under sub-section (*2*) may provide for all or any of the following matters, namely:—

(*a*) the manner of proof of mental healthcare and treatment under sub-section (*1*) of section 4;

(*b*) provision of half-way homes, sheltered accommodation and supported accommodation under clause (*b*) of sub-section (*4*) of section 18;

(*c*) hospitals and community based rehabilitation establishment and services under clause (*d*) of sub-section (*4*) of section 18;

(*d*) basic medical records of which access is to be given to a person with mental illness under sub-section (*1*) of section 25;

(*e*) custodial institutions under sub-section (*2*) of section 27;

(*f*) the form of application to be submitted by the mental health establishment with the undertaking that the mental health establishment fulfils the minimum standards, if any, specified by the Authority, under the *Explanation* to sub-section (*2*) of section 65;

(*g*) the form of certificate of registration under sub-section (*3*) of section 65;

(*h*) the form of application, the details, the fees to be accompanied with it under sub-section (*1*) of section 66;

(*i*) the form of certificate of provisional registration containing particulars and information under sub-section (*4*) of section 66;

(*j*) the fees for renewal of registration under sub-section (*11*) of section 66;

(*k*) the person or persons (including representatives of the local community) for the purpose of conducting an audit of the registered mental health establishments under sub-section (*1*) and fees to be charged by the Authority for conducting such audit under sub-section (*2*) of section 67;

(*l*) the person or persons for the purpose of conducting and inspection or inquiry of the mental health establishments under sub-section (*1*) of section 68;

(*m*) the manner to enter and search of a mental health establishment operating without registration under sub-section (*6*) of section 68;

(*n*) the fees for issuing a duplicate certificate under sub-section (*2*) of section 70;

(*o*) the form and manner in which the Authority shall maintain in digital format a register of mental health establishments, the particulars of the certificate of registration so granted in a separate register to be maintained under section 71;

(*p*) constitution of the Boards under sub-section (*3*) of section 73;

(*q*) the honorarium and other allowances payable to, and the other terms and conditions of service of, the chairperson and members of the Board under sub-section (*3*) of section 75;

(*r*) method, modalities and procedure for transfer of prisoners under sub-section (*2*) of section 103;

(*s*) the standard and procedure to which the Central or State Health Authority shall confirm under sub-section (*6*) of section 103;

(*t*) the form for furnishing periodical information under section 110; and

(*u*) any other matter which is required to be, or may be, specified by rules or in respect for which provision is to be made by rules.

Power of Central Authority to make regulations.

122. (*1*) The Central Authority may, by notification, make regulations, consistent with the provisions of this Act and the rules made thereunder, to carry out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) manner of making an advance directive under section 6;

(*b*) additional regulations, regarding the procedure of advance directive to protect the rights of persons with mental illness under sub-section (*3*) of section 12;

(*c*) the salaries and allowances payable to, and the other terms and conditions of service (including the qualifications, experience and manner of appointment) of, the chief executive officer and other officers and employees of the Central Authority under sub-section (*3*) of section 40;

(*d*) the times and places of meetings of the Central Authority and rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) under sub-section (*1*) of section 44;

(*e*) the minimum standards of facilities and services under clause (*a*) of sub-section (*4*) of section 65;

(*f*) the minimum qualifications for the personnel engaged in mental health establishment under clause (*b*) of sub-section (*4*) of section 65;

(*g*) provisions for maintenance of records and reporting under clause (*c*) of sub-section (*4*) of section 65;

(*h*) any other conditions under clause (*d*) of sub-section (*4*) of section 65;

(*i*) categories of different mental health establishment under clause (*a*) of sub-section (*5*) of section 65;

(*j*) the form of application to be made by the mental health establishment and the fees to be accompanied with it under sub-section (*12*) of section 66;

(*k*) manner of submitting evidence under sub-section (*13*) of section 66;

(*l*) the manner of filing objections under sub-section (*14*) of section 66;

(*m*) the time and places and rules of procedure in regard to the transaction of business at its meetings to be observed by the Central Authority and the Board under section 87;

(*n*) regulations under sub-section (*2*) of section 96 and under sub-section (*8*) of section 97;

(*o*) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

Power of State Authority to make regulations.

123. (*1*) The State Authority may, by notification, make regulations, consistent with the provision of this Act and the rules made thereunder, to carry out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) the minimum quality standards of mental health services under sub-section (*9*) of section 18;

(*b*) the salaries and allowances payable to, and the other terms and conditions of service (including the qualifications, experience and manner of appointment) of the chief executive officer and other officers and employees of the State Authority under sub-section (*3*) of section 52;

(*c*) the manner in which the State Authority shall publish the list of registered mental health professionals under clause (*d*) of sub-section (*1*) of section 55;

(*d*) the times and places of meetings of the State Authority and rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) under sub-section (*1*) of section 56;

(*e*) the form of application to be made by the mental health establishment and the fees to be accompanied with it under sub-section (*12*) of section 66;

(*f*) the manner of filing objections under sub-section (*14*) of section 66;

(*g*) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

Laying of rules and regulations.

124. (*1*) Every rule made by the Central Government and every regulation made by the Central Authority under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, as the case may be, or both Houses agree that the rule or regulation, as the case may be, should not be made, the rule or regulation, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation, as the case may be.

(*2*) Every rule made by the State Government and every regulation made by the State Authority under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Power to remove difficulties.

125. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

14 of 1897.

126. (*1*) The Mental Health Act, 1987 is hereby repealed.

Repeal and saving.

(*2*) Notwithstanding such repeal,—

(*a*) anything done or any action taken or purported to have been done or taken (including any rule, notification, inspection, order or declaration made or any document or instrument executed or any direction given or any proceedings taken or any penalty or fine imposed) under the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(*b*) the Central Authority for Mental Health Services, and the State Authority for Mental Health Services established under the repealed Act shall, continue to function under the corresponding provisions of this Act, unless and until the Central Authority and the State Authority are constituted under this Act;

(*c*) any person appointed in the Central Authority for Mental Health Services, or the State Authority for Mental Health Services or any person appointed as the visitor under the repealed Act and holding office as such immediately before the commencement of this Act, shall, on such commencement continue to hold their respective offices under the corresponding provisions of this Act, unless they are removed or until superannuated;

(*d*) any person appointed under the provisions of the repealed Act and holding office as such immediately before the commencement of this Act, shall, on such commencement continue to hold his office under the corresponding provisions of this Act, unless they are removed or until superannuated;

(*e*) any licence granted under the provisions of the repealed Act, shall be deemed to have been granted under the corresponding provisions of this Act unless the same are cancelled or modified under this Act;

(*f*) any proceeding pending in any court under the repealed Act on the commencement of this Act may be continued in that court as if this Act had not been enacted;

(*g*) any appeal preferred from the order of a Magistrate under the repealed Act but not disposed of before the commencement of this Act may be disposed of by the court as if this Act had not been enacted.

(*3*) The mention of the particular matters in sub-section (*2*) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

10 of 1897.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II — खण्ड 1
PART II — Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं॰ 11] नई दिल्ली, बुधवार, अप्रैल 12, 2017/चैत्र 22, 1939 (शक)
No. 11] NEW DELHI, WEDNESDAY, APRIL, 12, 2017/CHAITRA 22, 1939 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 12*th April*, 2017/*Chaitra* 22, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 12th April, 2017, and is hereby published for general information:—

THE EMPLOYEE'S COMPENSATION (AMENDMENT) ACT, 2017
No. 11 of 2017

[12*th April*, 2017.]

An Act further to amend the Employee's Compensation Act, 1923.

Be it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Employee's Compensation (Amendment) Act, 2017.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

8 of 1923.

Insertion of new section 17A.

2. In the Employee's Compensation Act, 1923 (hereinafter referred to as the principal Act), after section 17, the following section shall be inserted, namely:—

Duty of employer to inform employee of his rights.

"17A. Every employer shall immediately at the time of employment of an employee, inform the employee of his rights to compensation under this Act, in writing as well as through electronic means, in English or Hindi or in the official language of the area of employment, as may be understood by the employee.".

Amendment of section 18A.

3. In the principal Act, in section 18A, in sub-section (*1*),—

(*i*) in clause (*d*), for the word and figures "section 16,", the words and figures "section 16, or" shall be substituted;

(*ii*) after clause (*d*), the following clause shall be inserted, namely:—

"(*e*) fails to inform the employee of his rights to compensation as required under section 17A,";

(*iii*) in the long line, for the words "which may extend to five thousand rupees", the words "which shall not be less than fifty thousand rupees but which may extend to one lakh rupees" shall be substituted.

Amendment of section 30.

4. In the principal Act, in section 30, in sub-section (*1*), in the first proviso, for the words "three hundred rupees", the words "ten thousand rupees or such higher amount as the Central Government may, by notification in the Official Gazette, specify" shall be substituted.

Omission of section 30A.

5. Section 30A of the principal Act shall be omitted.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

———

CORRIGENDUM

The Enforcement of Security Interest and Recovery of Debts Laws and Miscellaneous Provisions (Amendment) Act, 2016 (No. 44 of 2016), as Published in the Gazette of India, Extraordinary, Part II, Section 1, Issue No. 51, dated the 16th August, 2016, at page NO. 2, in line 13, *for* ‘ “securitisation or” ’ *read* ‘ “securitisation company or” ’.

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 12*th April,* 2017/*Chaitra* 22, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 12th April, 2017, and is hereby published for general information:—

THE CENTRAL GOODS AND SERVICES TAX ACT, 2017

NO. 12 OF 2017

[12*th April,* 2017.]

An Act to make a provision for levy and collection of tax on intra-State supply of goods or services or both by the Central Government and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Central Goods and Services Tax Act, 2017.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*1*) "actionable claim" shall have the same meaning as assigned to it in section 3 of the Transfer of Property Act, 1882; 4 of 1882.

(*2*) "address of delivery" means the address of the recipient of goods or services or both indicated on the tax invoice issued by a registered person for delivery of such goods or services or both;

(*3*) "address on record" means the address of the recipient as available in the records of the supplier;

(*4*) "adjudicating authority" means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Central Board of Excise and Customs, the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority and the Appellate Tribunal;

(*5*) "agent" means a person, including a factor, broker, commission agent, *arhatia*, *del credere* agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another;

(*6*) "aggregate turnover" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess;

(*7*) "agriculturist" means an individual or a Hindu Undivided Family who undertakes cultivation of land—

(*a*) by own labour, or

(*b*) by the labour of family, or

(*c*) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family;

(*8*) "Appellate Authority" means an authority appointed or authorised to hear appeals as referred to in section 107;

(*9*) "Appellate Tribunal" means the Goods and Services Tax Appellate Tribunal constituted under section 109;

(*10*) "appointed day" means the date on which the provisions of this Act shall come into force;

(*11*) "assessment" means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment;

(*12*) "associated enterprises" shall have the same meaning as assigned to it in section 92A of the Income-tax Act, 1961; 43 of 1961.

(*13*) "audit" means the examination of records, returns and other documents maintained or furnished by the registered person under this Act or the rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or the rules made thereunder;

(*14*) "authorised bank" shall mean a bank or a branch of a bank authorised by the Government to collect the tax or any other amount payable under this Act;

(*15*) "authorised representative" means the representative as referred to in section 116;

(*16*) "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963; 54 of 1963.

(*17*) "business" includes—

(*a*) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;

(*b*) any activity or transaction in connection with or incidental or ancillary to sub-clause (*a*);

(*c*) any activity or transaction in the nature of sub-clause (*a*), whether or not there is volume, frequency, continuity or regularity of such transaction;

(*d*) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;

(*e*) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;

(*f*) admission, for a consideration, of persons to any premises;

(*g*) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;

(*h*) services provided by a race club by way of totalisator or a licence to book maker in such club ; and

(*i*) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;

(*18*) "business vertical" means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals.

Explanation.—For the purposes of this clause, factors that should be considered in determining whether goods or services are related include—

(*a*) the nature of the goods or services;

(*b*) the nature of the production processes;

(*c*) the type or class of customers for the goods or services;

(*d*) the methods used to distribute the goods or supply of services; and

(*e*) the nature of regulatory environment (wherever applicable), including banking, insurance, or public utilities;

(*19*) "capital goods" means goods, the value of which is capitalised in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business;

(*20*) "casual taxable person" means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business;

(*21*) "central tax" means the central goods and services tax levied under section 9;

(*22*) "cess" shall have the same meaning as assigned to it in the Goods and Services Tax (Compensation to States) Act;

(*23*) "chartered accountant" means a chartered accountant as defined in clause (*b*) of sub-section (*1*) of section 2 of the Chartered Accountants Act, 1949; 38 of 1949.

(*24*) "Commissioner" means the Commissioner of central tax and includes the Principal Commissioner of central tax appointed under section 3 and the Commissioner of integrated tax appointed under the Integrated Goods and Services Tax Act;

(*25*) "Commissioner in the Board" means the Commissioner referred to in section 168;

(*26*) "common portal" means the common goods and services tax electronic portal referred to in section 146;

(*27*) "common working days" in respect of a State or Union territory shall mean such days in succession which are not declared as gazetted holidays by the Central Government or the concerned State or Union territory Government;

(*28*) "company secretary" means a company secretary as defined in clause (*c*) of sub-section (*1*) of section 2 of the Company Secretaries Act, 1980; 56 of 1980.

(*29*) "competent authority" means such authority as may be notified by the Government;

(*30*) "composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

Illustration.— Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

(*31*) "consideration" in relation to the supply of goods or services or both includes––

(*a*) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

(*b*) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;

(*32*) "continuous supply of goods" means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify;

(*33*) "continuous supply of services" means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify;

(*34*) "conveyance" includes a vessel, an aircraft and a vehicle;

(*35*) "cost accountant" means a cost accountant as defined in clause (*c*) of sub-section (*1*) of section 2 of the Cost and Works Accountants Act, 1959;

23 of 1959.

(*36*) "Council" means the Goods and Services Tax Council established under article 279A of the Constitution;

(*37*) "credit note" means a document issued by a registered person under sub-section (*1*) of section 34;

(*38*) "debit note" means a document issued by a registered person under sub-section (*3*) of section 34;

(*39*) "deemed exports" means such supplies of goods as may be notified under section 147;

(*40*) "designated authority" means such authority as may be notified by the Board;

(*41*) "document" includes written or printed record of any sort and electronic record as defined in clause (*t*) of section 2 of the Information Technology Act, 2000;

21 of 2000.

(*42*) "drawback" in relation to any goods manufactured in India and exported, means the rebate of duty, tax or cess chargeable on any imported inputs or on any domestic inputs or input services used in the manufacture of such goods;

(*43*) "electronic cash ledger" means the electronic cash ledger referred to in sub-section (*1*) of section 49;

(*44*) "electronic commerce" means the supply of goods or services or both, including digital products over digital or electronic network;

(*45*) "electronic commerce operator" means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce;

(*46*) "electronic credit ledger" means the electronic credit ledger referred to in sub-section (*2*) of section 49;

(*47*) "exempt supply" means supply of any goods or services or both which attracts *nil* rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;

(*48*) "existing law" means any law, notification, order, rule or regulation relating to levy and collection of duty or tax on goods or services or both passed or made before the commencement of this Act by Parliament or any Authority or person having the power to make such law, notification, order, rule or regulation;

(*49*) "family" means,—

(*i*) the spouse and children of the person, and

(*ii*) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person;

(*50*) "fixed establishment" means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs;

(*51*) "Fund" means the Consumer Welfare Fund established under section 57;

(*52*) "goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;

(*53*) "Government" means the Central Government;

(*54*) "Goods and Services Tax (Compensation to States) Act" means the Goods and Services Tax (Compensation to States) Act, 2017;

(*55*) "goods and services tax practitioner" means any person who has been approved under section 48 to act as such practitioner;

(*56*) "India" means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters; 80 of 1976.

(*57*) "Integrated Goods and Services Tax Act" means the Integrated Goods and Services Tax Act, 2017;

(*58*) "integrated tax" means the integrated goods and services tax levied under the Integrated Goods and Services Tax Act;

(*59*) "input" means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business;

(*60*) "input service" means any service used or intended to be used by a supplier in the course or furtherance of business;

(*61*) "Input Service Distributor" means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office;

(*62*) "input tax" in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—

(*a*) the integrated goods and services tax charged on import of goods;

(*b*) the tax payable under the provisions of sub-sections (*3*) and (*4*) of section 9;

(*c*) the tax payable under the provisions of sub-sections (*3*) and (*4*) of section 5 of the Integrated Goods and Services Tax Act;

(*d*) the tax payable under the provisions of sub-sections (*3*) and (*4*) of section 9 of the respective State Goods and Services Tax Act; or

(*e*) the tax payable under the provisions of sub-sections (*3*) and (*4*) of section 7 of the Union Territory Goods and Services Tax Act,

but does not include the tax paid under the composition levy;

(*63*) "input tax credit" means the credit of input tax;

(*64*) "intra-State supply of goods" shall have the same meaning as assigned to it in section 8 of the Integrated Goods and Services Tax Act;

(*65*) "intra-State supply of services" shall have the same meaning as assigned to it in section 8 of the Integrated Goods and Services Tax Act;

(*66*) "invoice" or "tax invoice" means the tax invoice referred to in section 31;

(*67*) "inward supply" in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other means with or without consideration;

(*68*) "job work" means any treatment or process undertaken by a person on goods belonging to another registered person and the expression "job worker" shall be construed accordingly;

(*69*) "local authority" means—

(*a*) a "Panchayat" as defined in clause (*d*) of article 243 of the Constitution;

(*b*) a "Municipality" as defined in clause (e) of article 243P of the Constitution;

(*c*) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;

(*d*) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006; 41 of 2006.

(*e*) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;

(*f*) a Development Board constituted under article 371 of the Constitution; or

(*g*) a Regional Council constituted under article 371A of the Constitution;

(*70*) "location of the recipient of services" means,—

(*a*) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;

(*b*) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(*c*) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and

(*d*) in absence of such places, the location of the usual place of residence of the recipient;

(*71*) "location of the supplier of services" means,—

(*a*) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;

(*b*) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(*c*) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provisions of the supply; and

(*d*) in absence of such places, the location of the usual place of residence of the supplier;

(*72*) "manufacture" means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly;

(*73*) "market value" shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods or services or both of like kind and quality at or about the same time and at the same commercial level where the recipient and the supplier are not related;

(*74*) "mixed supply" means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Illustration.— A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a

single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;

(*75*) "money" means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;

(*76*) "motor vehicle" shall have the same meaning as assigned to it in clause (*28*) of section 2 of the Motor Vehicles Act, 1988; 59 of 1988.

(*77*) "non-resident taxable person" means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India;

(*78*) "non-taxable supply" means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;

(*79*) "non-taxable territory" means the territory which is outside the taxable territory;

(*80*) "notification" means a notification published in the Official Gazette and the expressions "notify" and "notified" shall be construed accordingly;

(*81*) "other territory" includes territories other than those comprising in a State and those referred to in sub-clauses (*a*) to (*e*) of clause (*114*) ;

(*82*) "output tax" in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis;

(*83*) "outward supply" in relation to a taxable person, means supply of goods or services or both, whether by sale, transfer, barter, exchange, licence, rental, lease or disposal or any other mode, made or agreed to be made by such person in the course or furtherance of business;

(*84*) "person" includes—

(*a*) an individual;

(*b*) a Hindu Undivided Family;

(*c*) a company;

(*d*) a firm;

(*e*) a Limited Liability Partnership;

(*f*) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;

(*g*) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (*45*) of section 2 of the Companies Act, 2013; 18 of 2013.

(*h*) any body corporate incorporated by or under the laws of a country outside India;

(*i*) a co-operative society registered under any law relating to co-operative societies;

(*j*) a local authority;

(*k*) Central Government or a State Government;

21 of 1860. (*l*) society as defined under the Societies Registration Act, 1860;

(*m*) trust; and

(*n*) every artificial juridical person, not falling within any of the above;

(*85*) "place of business" includes—

(*a*) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or

(*b*) a place where a taxable person maintains his books of account; or

(*c*) a place where a taxable person is engaged in business through an agent, by whatever name called;

(*86*) "place of supply" means the place of supply as referred to in Chapter V of the Integrated Goods and Services Tax Act;

(*87*) "prescribed" means prescribed by rules made under this Act on the recommendations of the Council;

(*88*) "principal" means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both;

(*89*) "principal place of business" means the place of business specified as the principal place of business in the certificate of registration;

(*90*) "principal supply" means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;

(*91*) "proper officer" in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board;

(*92*) "quarter" shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year;

(*93*) "recipient" of supply of goods or services or both, means—

(*a*) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;

(*b*) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

(*c*) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied;

(*94*) "registered person" means a person who is registered under section 25 but does not include a person having a Unique Identity Number;

(*95*) "regulations" means the regulations made by the Board under this Act on the recommendations of the Council;

(*96*) "removal'' in relation to goods, means—

(*a*) despatch of the goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier; or

(*b*) collection of the goods by the recipient thereof or by any other person acting on behalf of such recipient;

(*97*) "return" means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder;

(*98*) "reverse charge" means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (*3*) or sub-section (*4*) of section 9, or under sub-section (*3*) or sub-section (*4*) of section 5 of the Integrated Goods and Services Tax Act;

(*99*) "Revisional Authority" means an authority appointed or authorised for revision of decision or orders as referred to in section 108;

(*100*) "Schedule" means a Schedule appended to this Act;

(*101*) "securities" shall have the same meaning as assigned to it in clause (*h*) of section 2 of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

(*102*) "services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

(*103*) "State" includes a Union territory with Legislature;

(*104*) "State tax" means the tax levied under any State Goods and Services Tax Act;

(*105*) "supplier" in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied;

(*106*) "tax period" means the period for which the return is required to be furnished;

(*107*) "taxable person" means a person who is registered or liable to be registered under section 22 or section 24;

(*108*) "taxable supply" means a supply of goods or services or both which is leviable to tax under this Act;

(*109*) "taxable territory" means the territory to which the provisions of this Act apply;

(*110*) "telecommunication service" means service of any description (including electronic mail, voice mail, data services, audio text services, video text services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electromagnetic means;

(*111*) "the State Goods and Services Tax Act" means the respective State Goods and Services Tax Act, 2017;

(*112*) "turnover in State" or "turnover in Union territory" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory

tax, integrated tax and cess;

(*113*) "usual place of residence" means—

(*a*) in case of an individual, the place where he ordinarily resides;

(*b*) in other cases, the place where the person is incorporated or otherwise legally constituted;

(*114*) "Union territory" means the territory of—

(*a*) the Andaman and Nicobar Islands;

(*b*) Lakshadweep;

(*c*) Dadra and Nagar Haveli;

(*d*) Daman and Diu;

(*e*) Chandigarh; and

(*f*) other territory.

Explanation.—For the purposes of this Act, each of the territories specified in sub-clauses (*a*) to (*f*) shall be considered to be a separate Union territory;

(*115*) "Union territory tax" means the Union territory goods and services tax levied under the Union Territory Goods and Services Tax Act;

(*116*) "Union Territory Goods and Services Tax Act" means the Union Territory Goods and Services Tax Act, 2017;

(*117*) "valid return" means a return furnished under sub-section (*1*) of section 39 on which self-assessed tax has been paid in full;

(*118*) "voucher" means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument;

(*119*) "works contract" means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract;

(*120*) words and expressions used and not defined in this Act but defined in the Integrated Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act shall have the same meaning as assigned to them in those Acts;

(*121*) any reference in this Act to a law which is not in force in the State of Jammu and Kashmir, shall, in relation to that State be construed as a reference to the corresponding law, if any, in force in that State.

CHAPTER II

ADMINISTRATION

Officers under this Act.

3. The Government shall, by notification, appoint the following classes of officers for the purposes of this Act, namely:—

(*a*) Principal Chief Commissioners of Central Tax or Principal Directors General of Central Tax,

(*b*) Chief Commissioners of Central Tax or Directors General of Central Tax,

(*c*) Principal Commissioners of Central Tax or Principal Additional Directors General of Central Tax,

(*d*) Commissioners of Central Tax or Additional Directors General of Central Tax,

(*e*) Additional Commissioners of Central Tax or Additional Directors of Central Tax,

(*f*) Joint Commissioners of Central Tax or Joint Directors of Central Tax,

(*g*) Deputy Commissioners of Central Tax or Deputy Directors of Central Tax,

(*h*) Assistant Commissioners of Central Tax or Assistant Directors of Central Tax, and

(*i*) any other class of officers as it may deem fit:

Provided that the officers appointed under the Central Excise Act, 1944 shall be deemed to be the officers appointed under the provisions of this Act. 1 of 1944.

Appointment of officers.

4. (*1*) The Board may, in addition to the officers as may be notified by the Government under section 3, appoint such persons as it may think fit to be the officers under this Act.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Board may, by order, authorise any officer referred to in clauses (*a*) to (*h*) of section 3 to appoint officers of central tax below the rank of Assistant Commissioner of central tax for the administration of this Act.

Powers of officers.

5. (*1*) Subject to such conditions and limitations as the Board may impose, an officer of central tax may exercise the powers and discharge the duties conferred or imposed on him under this Act.

(*2*) An officer of central tax may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of central tax who is subordinate to him.

(*3*) The Commissioner may, subject to such conditions and limitations as may be specified in this behalf by him, delegate his powers to any other officer who is subordinate to him.

(*4*) Notwithstanding anything contained in this section, an Appellate Authority shall not exercise the powers and discharge the duties conferred or imposed on any other officer of central tax.

Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances.

6. (*1*) Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify.

(*2*) Subject to the conditions specified in the notification issued under sub-section (*1*),—

(*a*) where any proper officer issues an order under this Act, he shall also issue an order under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as authorised by the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, under intimation to the jurisdictional officer of State tax or Union territory tax;

(*b*) where a proper officer under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act has initiated any proceedings on a subject matter, no proceedings shall be initiated by the proper officer under this Act on the same subject matter.

(*3*) Any proceedings for rectification, appeal and revision, wherever applicable, of any order passed by an officer appointed under this Act shall not lie before an officer appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.

CHAPTER III

LEVY AND COLLECTION OF TAX

Scope of supply.

7. (*1*) For the purposes of this Act, the expression "supply" includes—

(*a*) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

(*b*) import of services for a consideration whether or not in the course or furtherance of business;

(*c*) the activities specified in Schedule I, made or agreed to be made without a consideration; and

(*d*) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

(*2*) Notwithstanding anything contained in sub-section (*1*),—

(*a*) activities or transactions specified in Schedule III; or

(*b*) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council,

shall be treated neither as a supply of goods nor a supply of services.

(*3*) Subject to the provisions of sub-sections (*1*) and (*2*), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—

(*a*) a supply of goods and not as a supply of services; or

(*b*) a supply of services and not as a supply of goods.

Tax liability on composite and mixed supplies.

8. The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:—

(*a*) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and

(*b*) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

Levy and collection.

9. (*1*) Subject to the provisions of sub-section (*2*), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

(*2*) The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

(*3*) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

(*4*) The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

(*5*) The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

Composition levy.

10. (*1*) Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (*3*) and (*4*) of section 9, a registered person, whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him, an amount calculated at such rate as may be prescribed, but not exceeding,—

(*a*) one per cent. of the turnover in State or turnover in Union territory in case of a manufacturer,

(*b*) two and a half per cent. of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (*b*) of paragraph 6 of Schedule II, and

(*c*) half per cent. of the turnover in State or turnover in Union territory in case of other suppliers,

subject to such conditions and restrictions as may be prescribed:

Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding one crore rupees, as may be recommended by the Council.

(*2*) The registered person shall be eligible to opt under sub-section (*1*), if:—

(*a*) he is not engaged in the supply of services other than supplies referred to in clause (*b*) of paragraph 6 of Schedule II;

(*b*) he is not engaged in making any supply of goods which are not leviable to tax under this Act;

(*c*) he is not engaged in making any inter-State outward supplies of goods;

(*d*) he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and

(*e*) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council:

Provided that where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under sub-section (*1*) unless all such registered persons opt to pay tax under that sub-section. 43 of 1961.

(*3*) The option availed of by a registered person under sub-section (*1*) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (*1*).

(*4*) A taxable person to whom the provisions of sub-section (*1*) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

(*5*) If the proper officer has reasons to believe that a taxable person has paid tax under sub-section (*1*) despite not being eligible, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of section 73 or section 74 shall, *mutatis mutandis*, apply for determination of tax and penalty.

Power to grant exemption from tax.

11. (*1*) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.

(*2*) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.

(*3*) The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (*1*) or order issued under sub-section (*2*), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (*1*) or order under sub-section (*2*), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

Explanation.—For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.

CHAPTER IV

TIME AND VALUE OF SUPPLY

Time of supply of goods.

12. (*1*) The liability to pay tax on goods shall arise at the time of supply, as determined in accordance with the provisions of this section.

(*2*) The time of supply of goods shall be the earlier of the following dates, namely:—

(*a*) the date of issue of invoice by the supplier or the last date on which he is required, under sub-section (*1*) of section 31, to issue the invoice with respect to the supply; or

(*b*) the date on which the supplier receives the payment with respect to the supply:

Provided that where the supplier of taxable goods receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.

Explanation 1.—For the purposes of clauses (*a*) and (*b*), "supply" shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

Explanation 2.—For the purposes of clause (*b*), "the date on which the supplier receives the payment" shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier.

(*3*) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely:—

(*a*) the date of the receipt of goods; or

(*b*) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

(*c*) the date immediately following thirty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

Provided that where it is not possible to determine the time of supply under clause (*a*) or clause (*b*) or clause (*c*), the time of supply shall be the date of entry in the books of account of the recipient of supply.

(*4*) In case of supply of vouchers by a supplier, the time of supply shall be—

(*a*) the date of issue of voucher, if the supply is identifiable at that point; or

(*b*) the date of redemption of voucher, in all other cases.

(*5*) Where it is not possible to determine the time of supply under the provisions of sub-section (*2*) or sub-section (*3*) or sub-section (*4*), the time of supply shall—

(*a*) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or

(*b*) in any other case, be the date on which the tax is paid.

(*6*) The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

Time of supply of services.

13. (*1*) The liability to pay tax on services shall arise at the time of supply, as determined in accordance with the provisions of this section.

(*2*) The time of supply of services shall be the earliest of the following dates, namely:—

(*a*) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under sub-section (*2*) of section 31 or the date of receipt of payment, whichever is earlier; or

(*b*) the date of provision of service, if the invoice is not issued within the period prescribed under sub-section (*2*) of section 31 or the date of receipt of payment, whichever is earlier; or

(*c*) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (*a*) or clause (*b*) do not apply:

Provided that where the supplier of taxable service receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice relating to such excess amount.

Explanation.—For the purposes of clauses (*a*) and (*b*)—

(*i*) the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment;

(*ii*) "the date of receipt of payment" shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

(*3*) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earlier of the following dates, namely:—

(*a*) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

(*b*) the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

Provided that where it is not possible to determine the time of supply under clause (*a*) or clause (*b*), the time of supply shall be the date of entry in the books of account of the recipient of supply:

Provided further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.

(*4*) In case of supply of vouchers by a supplier, the time of supply shall be—

(*a*) the date of issue of voucher, if the supply is identifiable at that point; or

(*b*) the date of redemption of voucher, in all other cases.

(*5*) Where it is not possible to determine the time of supply under the provisions of sub-section (*2*) or sub-section (*3*) or sub-section (*4*), the time of supply shall—

(*a*) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or

(*b*) in any other case, be the date on which the tax is paid.

(*6*) The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

Change in rate of tax in respect of supply of goods or services.

14. Notwithstanding anything contained in section 12 or section 13, the time of supply, where there is a change in the rate of tax in respect of goods or services or both, shall be determined in the following manner, namely:—

(*a*) in case the goods or services or both have been supplied before the change in rate of tax,—

(*i*) where the invoice for the same has been issued and the payment is also received after the change in rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or

(*ii*) where the invoice has been issued prior to the change in rate of tax but payment is received after the change in rate of tax, the time of supply shall be the date of issue of invoice; or

(*iii*) where the payment has been received before the change in rate of tax, but the invoice for the same is issued after the change in rate of tax, the time of supply shall be the date of receipt of payment;

(*b*) in case the goods or services or both have been supplied after the change in rate of tax,—

(*i*) where the payment is received after the change in rate of tax but the invoice has been issued prior to the change in rate of tax, the time of supply shall be the date of receipt of payment; or

(*ii*) where the invoice has been issued and payment is received before the change in rate of tax, the time of supply shall be the date of receipt of payment or date of issue of invoice, whichever is earlier; or

(*iii*) where the invoice has been issued after the change in rate of tax but the payment is received before the change in rate of tax, the time of supply shall be the date of issue of invoice:

Provided that the date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after four working days from the date of change in the rate of tax.

Explanation.—For the purposes of this section, "the date of receipt of payment" shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

Value of taxable supply.

15. (*1*) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

(*2*) The value of supply shall include—

(*a*) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;

(*b*) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;

(*c*) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;

(*d*) interest or late fee or penalty for delayed payment of any consideration for any supply; and

(*e*) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

Explanation.—For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.

(*3*) The value of the supply shall not include any discount which is given—

(*a*) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and

(*b*) after the supply has been effected, if—

(*i*) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and

(*ii*) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

(*4*) Where the value of the supply of goods or services or both cannot be determined under sub-section (*1*), the same shall be determined in such manner as may be prescribed.

(*5*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*4*), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.

Explanation.—For the purposes of this Act,—

(*a*) persons shall be deemed to be "related persons" if—

(*i*) such persons are officers or directors of one another's businesses;

(*ii*) such persons are legally recognised partners in business;

(*iii*) such persons are employer and employee;

(*iv*) any person directly or indirectly owns, controls or holds twenty-five per cent. or more of the outstanding voting stock or shares of both of them;

(*v*) one of them directly or indirectly controls the other;

(*vi*) both of them are directly or indirectly controlled by a third person;

(*vii*) together they directly or indirectly control a third person; or

(*viii*) they are members of the same family;

(*b*) the term "person" also includes legal persons;

(*c*) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

CHAPTER V

INPUT TAX CREDIT

Eligibility and conditions for taking input tax credit.

16. (*1*) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

(*2*) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

(*a*) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;

(*b*) he has received the goods or services or both.

Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(*c*) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and

(*d*) he has furnished the return under section 39:

Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a

period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed:

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

(*3*) Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed. 43 of 1961.

(*4*) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Apportionment of credit and blocked credits.

17. (*1*) Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

(*2*) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

(*3*) The value of exempt supply under sub-section (*2*) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (*b*) of paragraph 5 of Schedule II, sale of building.

(*4*) A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of sub-section (*2*), or avail of, every month, an amount equal to fifty per cent. of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse:

Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year:

Provided further that the restriction of fifty per cent. shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.

(*5*) Notwithstanding anything contained in sub-section (*1*) of section 16 and sub-section (*1*) of section 18, input tax credit shall not be available in respect of the following, namely:—

(*a*) motor vehicles and other conveyances except when they are used—

(*i*) for making the following taxable supplies, namely:—

(*A*) further supply of such vehicles or conveyances ; or

(*B*) transportation of passengers; or

(*C*) imparting training on driving, flying, navigating such vehicles or conveyances;

(*ii*) for transportation of goods;

(*b*) the following supply of goods or services or both—

(*i*) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(*ii*) membership of a club, health and fitness centre;

(*iii*) rent-a-cab, life insurance and health insurance except where—

(*A*) the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or

(*B*) such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and

(*iv*) travel benefits extended to employees on vacation such as leave or home travel concession;

(*c*) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

(*d*) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Explanation.––For the purposes of clauses (*c*) and (*d*), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;

(*e*) goods or services or both on which tax has been paid under section 10;

(*f*) goods or services or both received by a non-resident taxable person except on goods imported by him;

(*g*) goods or services or both used for personal consumption;

(*h*) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and

(*i*) any tax paid in accordance with the provisions of sections 74, 129 and 130.

(*6*) The Government may prescribe the manner in which the credit referred to in sub-sections (*1*) and (*2*) may be attributed.

Explanation.—For the purposes of this Chapter and Chapter VI, the expression "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes—

(*i*) land, building or any other civil structures;

(*ii*) telecommunication towers; and

(*iii*) pipelines laid outside the factory premises.

Availability of credit in special circumstances.

18. (*1*) Subject to such conditions and restrictions as may be prescribed—

(*a*) a person who has applied for registration under this Act within thirty days from the date on which he becomes liable to registration and has been granted such

registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act;

(*b*) a person who takes registration under sub-section (*3*) of section 25 shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration;

(*c*) where any registered person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9:

Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed;

(*d*) where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relatable to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable:

Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed.

(*2*) A registered person shall not be entitled to take input tax credit under sub-section (*1*) in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice relating to such supply.

(*3*) Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.

(*4*) Where any registered person who has availed of input tax credit opts to pay tax under section 10 or, where the goods or services or both supplied by him become wholly exempt, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption:

Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

(*5*) The amount of credit under sub-section (*1*) and the amount payable under sub-section (*4*) shall be calculated in such manner as may be prescribed.

(*6*) In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery determined under section 15, whichever is higher:

Provided that where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined under section 15.

Taking input tax credit in respect of inputs and capital goods sent for job work.

19. (*1*) The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on inputs sent to a job worker for job work.

(*2*) Notwithstanding anything contained in clause (*b*) of sub-section (*2*) of section 16, the principal shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job work without being first brought to his place of business.

(*3*) Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise or are not supplied from the place of business of the job worker in accordance with clause (*a*) or clause (*b*) of sub-section (*1*) of section 143 within one year of being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out:

Provided that where the inputs are sent directly to a job worker, the period of one year shall be counted from the date of receipt of inputs by the job worker.

(*4*) The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on capital goods sent to a job worker for job work.

(*5*) Notwithstanding anything contained in clause (*b*) of sub-section (*2*) of section 16, the principal shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job work without being first brought to his place of business.

(*6*) Where the capital goods sent for job work are not received back by the principal within a period of three years of being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out:

Provided that where the capital goods are sent directly to a job worker, the period of three years shall be counted from the date of receipt of capital goods by the job worker.

(*7*) Nothing contained in sub-section (*3*) or sub-section (*6*) shall apply to moulds and dies, jigs and fixtures, or tools sent out to a job worker for job work.

Explanation.—For the purpose of this section, "principal" means the person referred to in section 143.

Manner of distribution of credit by Input Service Distributor.

20. (*1*) The Input Service Distributor shall distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit being distributed in such manner as may be prescribed.

(*2*) The Input Service Distributor may distribute the credit subject to the following conditions, namely:—

(*a*) the credit can be distributed to the recipients of credit against a document containing such details as may be prescribed;

(*b*) the amount of the credit distributed shall not exceed the amount of credit available for distribution;

(*c*) the credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;

(*d*) the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed amongst such recipients to whom the input service is attributable and such distribution shall be *pro rata* on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;

(*e*) the credit of tax paid on input services attributable to all recipients of credit shall be distributed amongst such recipients and such distribution shall be *pro rata* on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period.

Explanation.—For the purposes of this section,—

(*a*) the "relevant period" shall be—

(*i*) if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or

(*ii*) if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed;

(*b*) the expression "recipient of credit" means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor;

(*c*) the term ''turnover'', in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.

Manner of recovery of credit distributed in excess.

21. Where the Input Service Distributor distributes the credit in contravention of the provisions contained in section 20 resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest, and the provisions of section 73 or section 74, as the case may be, shall, *mutatis mutandis*, apply for determination of amount to be recovered.

CHAPTER VI

REGISTRATION

Persons liable for registration.

22. (*1*) Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees:

Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees.

(*2*) Every person who, on the day immediately preceding the appointed day, is registered or holds a licence under an existing law, shall be liable to be registered under this Act with effect from the appointed day.

(*3*) Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.

(*4*) Notwithstanding anything contained in sub-sections (*1*) and (*3*), in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, demerger of two or more companies pursuant to an order of a High Court, Tribunal

or otherwise, the transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.

Explanation.—For the purposes of this section,—

(*i*) the expression "aggregate turnover" shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals;

(*ii*) the supply of goods, after completion of job work, by a registered job worker shall be treated as the supply of goods by the principal referred to in section 143, and the value of such goods shall not be included in the aggregate turnover of the registered job worker;

(*iii*) the expression "special category States" shall mean the States as specified in sub-clause (*g*) of clause (*4*) of article 279A of the Constitution.

Persons not liable for registration.

23. (*1*) The following persons shall not be liable to registration, namely:—

(*a*) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;

(*b*) an agriculturist, to the extent of supply of produce out of cultivation of land.

(*2*) The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.

Compulsory registration in certain cases.

24. Notwithstanding anything contained in sub-section (*1*) of section 22, the following categories of persons shall be required to be registered under this Act,—

(*i*) persons making any inter-State taxable supply;

(*ii*) casual taxable persons making taxable supply;

(*iii*) persons who are required to pay tax under reverse charge;

(*iv*) person who are required to pay tax under sub-section (*5*) of section 9;

(*v*) non-resident taxable persons making taxable supply;

(*vi*) persons who are required to deduct tax under section 51, whether or not separately registered under this Act;

(*vii*) persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;

(*viii*) Input Service Distributor, whether or not separately registered under this Act;

(*ix*) persons who supply goods or services or both, other than supplies specified under sub-section (*5*) of section 9, through such electronic commerce operator who is required to collect tax at source under section 52;

(*x*) every electronic commerce operator;

(*xi*) every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered person; and

(*xii*) such other person or class of persons as may be notified by the Government on the recommendations of the Council.

Procedure for registration.

25. (*1*) Every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is so liable within

thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed:

Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business.

Explanation.—Every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

(*2*) A person seeking registration under this Act shall be granted a single registration in a State or Union territory:

Provided that a person having multiple business verticals in a State or Union territory may be granted a separate registration for each business vertical, subject to such conditions as may be prescribed.

(*3*) A person, though not liable to be registered under section 22 or section 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.

(*4*) A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

(*5*) Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

(*6*) Every person shall have a Permanent Account Number issued under the Income-tax Act, 1961 in order to be eligible for grant of registration: 43 of 1961.

Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.

(*7*) Notwithstanding anything contained in sub-section (*6*), a non-resident taxable person may be granted registration under sub-section (*1*) on the basis of such other documents as may be prescribed.

(*8*) Where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under this Act or under any other law for the time being in force, proceed to register such person in such manner as may be prescribed.

(*9*) Notwithstanding anything contained in sub-section (*1*),—

(*a*) any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries; and 46 of 1947.

(*b*) any other person or class of persons, as may be notified by the Commissioner,

shall be granted a Unique Identity Number in such manner and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed.

(*10*) The registration or the Unique Identity Number shall be granted or rejected after due verification in such manner and within such period as may be prescribed.

(*11*) A certificate of registration shall be issued in such form and with effect from such date as may be prescribed.

(*12*) A registration or a Unique Identity Number shall be deemed to have been granted after the expiry of the period prescribed under sub-section (*10*), if no deficiency has been communicated to the applicant within that period.

Deemed registration.

26. (*1*) The grant of registration or the Unique Identity Number under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be a grant of registration or the Unique Identity Number under this Act subject to the condition that the application for registration or the Unique Identity Number has not been rejected under this Act within the time specified in sub-section (*10*) of section 25.

(*2*) Notwithstanding anything contained in sub-section (*10*) of section 25, any rejection of application for registration or the Unique Identity Number under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be a rejection of application for registration under this Act.

Special provisions relating to casual taxable person and non-resident taxable person.

27. (*1*) The certificate of registration issued to a casual taxable person or a non-resident taxable person shall be valid for the period specified in the application for registration or ninety days from the effective date of registration, whichever is earlier and such person shall make taxable supplies only after the issuance of the certificate of registration:

Provided that the proper officer may, on sufficient cause being shown by the said taxable person, extend the said period of ninety days by a further period not exceeding ninety days.

(*2*) A casual taxable person or a non-resident taxable person shall, at the time of submission of application for registration under sub-section (*1*) of section 25, make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought:

Provided that where any extension of time is sought under sub-section (*1*), such taxable person shall deposit an additional amount of tax equivalent to the estimated tax liability of such person for the period for which the extension is sought.

(*3*) The amount deposited under sub-section (*2*) shall be credited to the electronic cash ledger of such person and shall be utilised in the manner provided under section 49.

Amendment of registration.

28. (*1*) Every registered person and a person to whom a Unique Identity Number has been assigned shall inform the proper officer of any changes in the information furnished at the time of registration or subsequent thereto, in such form and manner and within such period as may be prescribed.

(*2*) The proper officer may, on the basis of information furnished under sub-section (*1*) or as ascertained by him, approve or reject amendments in the registration particulars in such manner and within such period as may be prescribed:

Provided that approval of the proper officer shall not be required in respect of amendment of such particulars as may be prescribed:

Provided further that the proper officer shall not reject the application for amendment in the registration particulars without giving the person an opportunity of being heard.

(*3*) Any rejection or approval of amendments under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a rejection or approval under this Act.

Cancellation of registration.

29. (*1*) The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the

registration, in such manner and within such period as may be prescribed, having regard to the circumstances where,—

(*a*) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or

(*b*) there is any change in the constitution of the business; or

(*c*) the taxable person, other than the person registered under sub-section (*3*) of section 25, is no longer liable to be registered under section 22 or section 24.

(*2*) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,—

(*a*) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or

(*b*) a person paying tax under section 10 has not furnished returns for three consecutive tax periods; or

(*c*) any registered person, other than a person specified in clause (*b*), has not furnished returns for a continuous period of six months; or

(*d*) any person who has taken voluntary registration under sub-section (*3*) of section 25 has not commenced business within six months from the date of registration; or

(*e*) registration has been obtained by means of fraud, wilful misstatement or suppression of facts:

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

(*3*) The cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.

(*4*) The cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a cancellation of registration under this Act.

(*5*) Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed:

Provided that in case of capital goods or plant and machinery, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery, reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery under section 15, whichever is higher.

(*6*) The amount payable under sub-section (*5*) shall be calculated in such manner as may be prescribed.

Revocation of cancellation of registration.

30. (*1*) Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order.

(*2*) The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application:

Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.

(*3*) The revocation of cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.

CHAPTER VII

TAX INVOICE, CREDIT AND DEBIT NOTES

Tax invoice.

31. (*1*) A registered person supplying taxable goods shall, before or at the time of,—

(*a*) removal of goods for supply to the recipient, where the supply involves movement of goods; or

(*b*) delivery of goods or making available thereof to the recipient, in any other case,

issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed:

Provided that the Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.

(*2*) A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed:

Provided that the Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which—

(*a*) any other document issued in relation to the supply shall be deemed to be a tax invoice; or

(*b*) tax invoice may not be issued.

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*)—

(*a*) a registered person may, within one month from the date of issuance of certificate of registration and in such manner as may be prescribed, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him;

(*b*) a registered person may not issue a tax invoice if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;

(*c*) a registered person supplying exempted goods or services or both or paying tax under the provisions of section 10 shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed:

Provided that the registered person may not issue a bill of supply if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;

(*d*) a registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a receipt voucher or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment;

(*e*) where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment;

(*f*) a registered person who is liable to pay tax under sub-section (*3*) or sub-section (*4*) of section 9 shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both;

(*g*) a registered person who is liable to pay tax under sub-section (*3*) or sub-section (*4*) of section 9 shall issue a payment voucher at the time of making payment to the supplier.

(*4*) In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.

(*5*) Subject to the provisions of clause (*d*) of sub-section (*3*), in case of continuous supply of services,—

(*a*) where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;

(*b*) where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;

(*c*) where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.

(*6*) In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.

(*7*) Notwithstanding anything contained in sub-section (*1*), where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

Explanation.—For the purposes of this section, the expression "tax invoice" shall include any revised invoice issued by the supplier in respect of a supply made earlier.

Prohibition of unauthorised collection of tax.

32. (*1*) A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this Act.

(*2*) No registered person shall collect tax except in accordance with the provisions of this Act or the rules made thereunder.

Amount of tax to be indicated in tax invoice and other documents.

33. Notwithstanding anything contained in this Act or any other law for the time being in force, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

Credit and debit notes.

34. (*1*) Where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient a credit note containing such particulars as may be prescribed.

(*2*) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:

Provided that no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

(*3*) Where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient a debit note containing such particulars as may be prescribed.

(*4*) Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued and the tax liability shall be adjusted in such manner as may be prescribed.

Explanation.—For the purposes of this Act, the expression "debit note" shall include a supplementary invoice.

CHAPTER VIII

ACCOUNTS AND RECORDS

Accounts and other records.

35. (*1*) Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of—

(*a*) production or manufacture of goods;

(*b*) inward and outward supply of goods or services or both;

(*c*) stock of goods;

(*d*) input tax credit availed;

(*e*) output tax payable and paid; and

(*f*) such other particulars as may be prescribed:

Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business:

Provided further that the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.

(*2*) Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed.

(*3*) The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.

(*4*) Where the Commissioner considers that any class of taxable person is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.

(*5*) Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant

and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (*2*) of section 44 and such other documents in such form and manner as may be prescribed.

(*6*) Subject to the provisions of clause (*h*) of sub-section (*5*) of section 17, where the registered person fails to account for the goods or services or both in accordance with the provisions of sub-section (*1*), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73 or section 74, as the case may be, shall, *mutatis mutandis,* apply for determination of such tax.

Period of retention of accounts.

36. Every registered person required to keep and maintain books of account or other records in accordance with the provisions of sub-section (*1*) of section 35 shall retain them until the expiry of seventy-two months from the due date of furnishing of annual return for the year pertaining to such accounts and records:

Provided that a registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

CHAPTER IX

RETURNS

Furnishing details of outward supplies.

37. (*1*) Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed:

Provided that the registered person shall not be allowed to furnish the details of outward supplies during the period from the eleventh day to the fifteenth day of the month succeeding the tax period:

Provided further that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

Provided also that any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

(*2*) Every registered person who has been communicated the details under sub-section (*3*) of section 38 or the details pertaining to inward supplies of Input Service Distributor under sub-section (*4*) of section 38, shall either accept or reject the details so communicated, on or before the seventeenth day, but not before the fifteenth day, of the month succeeding the tax period and the details furnished by him under sub-section (*1*) shall stand amended accordingly.

(*3*) Any registered person, who has furnished the details under sub-section (*1*) for any tax period and which have remained unmatched under section 42 or section 43, shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a

short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (*1*) shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

Explanation.—For the purposes of this Chapter, the expression "details of outward supplies" shall include details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period.

Furnishing details of inward supplies.

38. (*1*) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, shall verify, validate, modify or delete, if required, the details relating to outward supplies and credit or debit notes communicated under sub-section (*1*) of section 37 to prepare the details of his inward supplies and credit or debit notes and may include therein, the details of inward supplies and credit or debit notes received by him in respect of such supplies that have not been declared by the supplier under sub-section (*1*) of section 37.

(*2*) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, the details of inward supplies of taxable goods or services or both, including inward supplies of goods or services or both on which the tax is payable on reverse charge basis under this Act and inward supplies of goods or services or both taxable under the Integrated Goods and Services Tax Act or on which integrated goods and services tax is payable under section 3 of the Customs Tariff Act, 1975, and credit or debit notes received in respect of such supplies during a tax period after the tenth day but on or before the fifteenth day of the month succeeding the tax period in such form and manner as may be prescribed:

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Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

(*3*) The details of supplies modified, deleted or included by the recipient and furnished under sub-section (*2*) shall be communicated to the supplier concerned in such manner and within such time as may be prescribed.

(*4*) The details of supplies modified, deleted or included by the recipient in the return furnished under sub-section (*2*) or sub-section (*4*) of section 39 shall be communicated to the supplier concerned in such manner and within such time as may be prescribed.

(*5*) Any registered person, who has furnished the details under sub-section (*2*) for any tax period and which have remained unmatched under section 42 or section 43, shall, upon discovery of any error or omission therein, rectify such error or omission in the tax period during which such error or omission is noticed in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (*2*) shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

Furnishing of returns.

39. (*1*) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars as may be prescribed, on or before the twentieth day of the month succeeding such calendar month or part thereof.

(*2*) A registered person paying tax under the provisions of section 10 shall, for each quarter or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable and tax paid within eighteen days after the end of such quarter.

(*3*) Every registered person required to deduct tax at source under the provisions of section 51 shall furnish, in such form and manner as may be prescribed, a return, electronically, for the month in which such deductions have been made within ten days after the end of such month.

(*4*) Every taxable person registered as an Input Service Distributor shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within thirteen days after the end of such month.

(*5*) Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within twenty days after the end of a calendar month or within seven days after the last day of the period of registration specified under sub-section (*1*) of section 27, whichever is earlier.

(*6*) The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns under this section for such class of registered persons as may be specified therein:

Provided that any extension of time limit notified by the Commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner.

(*7*) Every registered person, who is required to furnish a return under sub-section (*1*) or sub-section (*2*) or sub-section (*3*) or sub-section (*5*), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return.

(*8*) Every registered person who is required to furnish a return under sub-section (*1*) or sub-section (*2*) shall furnish a return for every tax period whether or not any supplies of goods or services or both have been made during such tax period.

(*9*) Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return under sub-section (*1*) or sub-section (*2*) or sub-section (*3*) or sub-section (*4*) or sub-section (*5*) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed, subject to payment of interest under this Act:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second quarter following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier.

(*10*) A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods has not been furnished by him.

First return.

40. Every registered person who has made outward supplies in the period between the date on which he became liable to registration till the date on which registration has been granted shall declare the same in the first return furnished by him after grant of registration.

Claim of input tax credit and provisional acceptance thereof.

41. (*1*) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a provisional basis to his electronic credit ledger.

(*2*) The credit referred to in sub-section (*1*) shall be utilised only for payment of self-assessed output tax as per the return referred to in the said sub-section.

Matching, reversal and reclaim of input tax credit.

42. (*1*) The details of every inward supply furnished by a registered person (hereafter in this section referred to as the "recipient") for a tax period shall, in such manner and within such time as may be prescribed, be matched—

(*a*) with the corresponding details of outward supply furnished by the corresponding registered person (hereafter in this section referred to as the "supplier") in his valid return for the same tax period or any preceding tax period;

(*b*) with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him; and

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(*c*) for duplication of claims of input tax credit.

(*2*) The claim of input tax credit in respect of invoices or debit notes relating to inward supply that match with the details of corresponding outward supply or with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him shall be finally accepted and such acceptance shall be communicated, in such manner as may be prescribed, to the recipient.

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(*3*) Where the input tax credit claimed by a recipient in respect of an inward supply is in excess of the tax declared by the supplier for the same supply or the outward supply is not declared by the supplier in his valid returns, the discrepancy shall be communicated to both such persons in such manner as may be prescribed.

(*4*) The duplication of claims of input tax credit shall be communicated to the recipient in such manner as may be prescribed.

(*5*) The amount in respect of which any discrepancy is communicated under sub-section (*3*) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the recipient, in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.

(*6*) The amount claimed as input tax credit that is found to be in excess on account of duplication of claims shall be added to the output tax liability of the recipient in his return for the month in which the duplication is communicated.

(*7*) The recipient shall be eligible to reduce, from his output tax liability, the amount added under sub-section (*5*), if the supplier declares the details of the invoice or debit note in his valid return within the time specified in sub-section (*9*) of section 39.

(*8*) A recipient in whose output tax liability any amount has been added under sub-section (*5*) or sub-section (*6*), shall be liable to pay interest at the rate specified under sub-section (*1*) of section 50 on the amount so added from the date of availing of credit till the corresponding additions are made under the said sub-sections.

(*9*) Where any reduction in output tax liability is accepted under sub-section (*7*), the interest paid under sub-section (*8*) shall be refunded to the recipient by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed:

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the supplier.

(*10*) The amount reduced from the output tax liability in contravention of the provisions of sub-section (*7*) shall be added to the output tax liability of the recipient in his return for the month in which such contravention takes place and such recipient shall be liable to pay interest on the amount so added at the rate specified in sub-section (*3*) of section 50.

Matching, reversal and reclaim of reduction in output tax liability.

43. (*1*) The details of every credit note relating to outward supply furnished by a registered person (hereafter in this section referred to as the "supplier") for a tax period shall, in such manner and within such time as may be prescribed, be matched—

(*a*) with the corresponding reduction in the claim for input tax credit by the corresponding registered person (hereafter in this section referred to as the "recipient") in his valid return for the same tax period or any subsequent tax period; and

(*b*) for duplication of claims for reduction in output tax liability.

(*2*) The claim for reduction in output tax liability by the supplier that matches with the corresponding reduction in the claim for input tax credit by the recipient shall be finally accepted and communicated, in such manner as may be prescribed, to the supplier.

(*3*) Where the reduction of output tax liability in respect of outward supplies exceeds the corresponding reduction in the claim for input tax credit or the corresponding credit note is not declared by the recipient in his valid returns, the discrepancy shall be communicated to both such persons in such manner as may be prescribed.

(*4*) The duplication of claims for reduction in output tax liability shall be communicated to the supplier in such manner as may be prescribed.

(*5*) The amount in respect of which any discrepancy is communicated under sub-section (*3*) and which is not rectified by the recipient in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the supplier, in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.

(*6*) The amount in respect of any reduction in output tax liability that is found to be on account of duplication of claims shall be added to the output tax liability of the supplier in his return for the month in which such duplication is communicated.

(*7*) The supplier shall be eligible to reduce, from his output tax liability, the amount added under sub-section (*5*) if the recipient declares the details of the credit note in his valid return within the time specified in sub-section (*9*) of section 39.

(*8*) A supplier in whose output tax liability any amount has been added under sub-section (*5*) or sub-section (*6*), shall be liable to pay interest at the rate specified under sub-section (*1*) of section 50 in respect of the amount so added from the date of such claim for reduction in the output tax liability till the corresponding additions are made under the said sub-sections.

(*9*) Where any reduction in output tax liability is accepted under sub-section (*7*), the interest paid under sub-section (*8*) shall be refunded to the supplier by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed:

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the recipient.

(*10*) The amount reduced from output tax liability in contravention of the provisions of sub-section (*7*) shall be added to the output tax liability of the supplier in his return for the month in which such contravention takes place and such supplier shall be liable to pay interest on the amount so added at the rate specified in sub-section (*3*) of section 50.

Annual return.

44. (*1*) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year.

(*2*) Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (*5*) of section 35 shall furnish, electronically, the annual return under sub-section (*1*) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.

Final return.

45. Every registered person who is required to furnish a return under sub-section (*1*) of section 39 and whose registration has been cancelled shall furnish a final return within three months of the date of cancellation or date of order of cancellation, whichever is later, in such form and manner as may be prescribed.

Notice to return defaulters.

46. Where a registered person fails to furnish a return under section 39 or section 44 or section 45, a notice shall be issued requiring him to furnish such return within fifteen days in such form and manner as may be prescribed.

Levy of late fee.

47. (*1*) Any registered person who fails to furnish the details of outward or inward supplies required under section 37 or section 38 or returns required under section 39 or section 45 by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees.

(*2*) Any registered person who fails to furnish the return required under section 44 by the due date shall be liable to pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at a quarter per cent. of his turnover in the State or Union territory.

Goods and services tax practitioners.

48. (*1*) The manner of approval of goods and services tax practitioners, their eligibility conditions, duties and obligations, manner of removal and other conditions relevant for their functioning shall be such as may be prescribed.

(*2*) A registered person may authorise an approved goods and services tax practitioner to furnish the details of outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or section 44 or section 45 in such manner as may be prescribed.

(*3*) Notwithstanding anything contained in sub-section (*2*), the responsibility for correctness of any particulars furnished in the return or other details filed by the goods and services tax practitioners shall continue to rest with the registered person on whose behalf such return and details are furnished.

CHAPTER X

PAYMENT OF TAX

Payment of tax, interest, penalty and other amounts.

49. (*1*) Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed.

(*2*) The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41, to be maintained in such manner as may be prescribed.

(*3*) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

(*4*) The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed.

(*5*) The amount of input tax credit available in the electronic credit ledger of the registered person on account of—

(*a*) integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order;

(*b*) the central tax shall first be utilised towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;

(*c*) the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax;

(*d*) the Union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax;

(*e*) the central tax shall not be utilised towards payment of State tax or Union territory tax; and

(*f*) the State tax or Union territory tax shall not be utilised towards payment of central tax.

(*6*) The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder may be refunded in accordance with the provisions of section 54.

(*7*) All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic liability register in such manner as may be prescribed.

(*8*) Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:—

(*a*) self-assessed tax, and other dues related to returns of previous tax periods;

(*b*) self-assessed tax, and other dues related to the return of the current tax period;

(*c*) any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74.

(*9*) Every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

Explanation.—For the purposes of this section,—

(*a*) the date of credit to the account of the Government in the authorised bank shall be deemed to be the date of deposit in the electronic cash ledger;

(*b*) the expression,—

(*i*) "tax dues" means the tax payable under this Act and does not include interest, fee and penalty; and

(*ii*) "other dues" means interest, penalty, fee or any other amount payable under this Act or the rules made thereunder.

Interest on delayed payment of tax.

50. (*1*) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.

(*2*) The interest under sub-section (*1*) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.

(*3*) A taxable person who makes an undue or excess claim of input tax credit under sub-section (*10*) of section 42 or undue or excess reduction in output tax liability under sub-section (*10*) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty-four per cent., as may be notified by the Government on the recommendations of the Council.

Tax deduction at source.

51. (*1*) Notwithstanding anything to the contrary contained in this Act, the Government may mandate,—

(*a*) a department or establishment of the Central Government or State Government; or

(*b*) local authority; or

(*c*) Governmental agencies; or

(*d*) such persons or category of persons as may be notified by the Government on the recommendations of the Council,

(hereafter in this section referred to as "the deductor"), to deduct tax at the rate of one per cent. from the payment made or credited to the supplier (hereafter in this section referred to as "the deductee") of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees:

Provided that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.

Explanation.—For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.

(*2*) The amount deducted as tax under this section shall be paid to the Government by the deductor within ten days after the end of the month in which such deduction is made, in such manner as may be prescribed.

(*3*) The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed.

(*4*) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees.

(*5*) The deductee shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor furnished under sub-section (*3*) of section 39, in such manner as may be prescribed.

(*6*) If any deductor fails to pay to the Government the amount deducted as tax under sub-section (*1*), he shall pay interest in accordance with the provisions of sub-section (*1*) of section 50, in addition to the amount of tax deducted.

(*7*) The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74.

(*8*) The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54:

Provided that no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee.

Collection of tax at source.

52. (*1*) Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the "operator"), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

Explanation.—For the purposes of this sub-section, the expression "net value of taxable supplies" shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (*5*) of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.

(*2*) The power to collect the amount specified in sub-section (*1*) shall be without prejudice to any other mode of recovery from the operator.

(*3*) The amount collected under sub-section (*1*) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed.

(*4*) Every operator who collects the amount specified in sub-section (*1*) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (*1*) during a month, in such form and manner as may be prescribed, within ten days after the end of such month.

(*5*) Every operator who collects the amount specified in sub-section (*1*) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, before the thirty first day of December following the end of such financial year.

(*6*) If any operator after furnishing a statement under sub-section (*4*) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (*1*) of section 50:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of statement for the month of September following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.

(*7*) The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-section (*4*), in such manner as may be prescribed.

(*8*) The details of supplies furnished by every operator under sub-section (*4*) shall be matched with the corresponding details of outward supplies furnished by the concerned supplier registered under this Act in such manner and within such time as may be prescribed.

(*9*) Where the details of outward supplies furnished by the operator under sub-section (*4*) do not match with the corresponding details furnished by the supplier under section 37, the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed.

(*10*) The amount in respect of which any discrepancy is communicated under sub-section (*9*) and which is not rectified by the supplier in his valid return or the operator in

his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated in such manner as may be prescribed.

(*11*) The concerned supplier, in whose output tax liability any amount has been added under sub-section (*10*), shall pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (*1*) of section 50 on the amount so added from the date such tax was due till the date of its payment.

(*12*) Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to—

(*a*) supplies of goods or services or both effected through such operator during any period; or

(*b*) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers,

as may be specified in the notice.

(*13*) Every operator on whom a notice has been served under sub-section (*12*) shall furnish the required information within fifteen working days of the date of service of such notice.

(*14*) Any person who fails to furnish the information required by the notice served under sub-section (*12*) shall, without prejudice to any action that may be taken under section 122, be liable to a penalty which may extend to twenty-five thousand rupees.

Explanation.—For the purposes of this section, the expression "concerned supplier" shall mean the supplier of goods or services or both making supplies through the operator.

Transfer of input tax credit.

53. On utilisation of input tax credit availed under this Act for payment of tax dues under the Integrated Goods and Services Tax Act in accordance with the provisions of sub-section (*5*) of section 49, as reflected in the valid return furnished under sub-section (*1*) of section 39, the amount collected as central tax shall stand reduced by an amount equal to such credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the central tax account to the integrated tax account in such manner and within such time as may be prescribed.

CHAPTER XI

REFUNDS

Refund of tax.

54. (*1*) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed:

Provided that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (*6*) of section 49, may claim such refund in the return furnished under section 39 in such manner as may be prescribed.

(*2*) A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of six months from the last day of the quarter in which such supply was received.

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(*3*) Subject to the provisions of sub-section (*10*), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:

Provided that no refund of unutilised input tax credit shall be allowed in cases other than––

(*i*) zero rated supplies made without payment of tax;

(*ii*) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:

Provided further that no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty:

Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

(*4*) The application shall be accompanied by—

(*a*) such documentary evidence as may be prescribed to establish that a refund is due to the applicant; and

(*b*) such documentary or other evidence (including the documents referred to in section 33) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person:

Provided that where the amount claimed as refund is less than two lakh rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.

(*5*) If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund referred to in section 57.

(*6*) Notwithstanding anything contained in sub-section (*5*), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent. of the total amount so claimed, excluding the amount of input tax credit provisionally accepted, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (*5*) for final settlement of the refund claim after due verification of documents furnished by the applicant.

(*7*) The proper officer shall issue the order under sub-section (*5*) within sixty days from the date of receipt of application complete in all respects.

(*8*) Notwithstanding anything contained in sub-section (*5*), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to—

(*a*) refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies;

(*b*) refund of unutilised input tax credit under sub-section (*3*);

(*c*) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;

(*d*) refund of tax in pursuance of section 77;

(*e*) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or

(*f*) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

(*9*) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any court or in any other provisions of this Act or the rules made thereunder or in any other law for the time being in force, no refund shall be made except in accordance with the provisions of sub-section (*8*).

(*10*) Where any refund is due under sub-section (*3*) to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may—

(*a*) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;

(*b*) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.

Explanation.—For the purposes of this sub-section, the expression "specified date" shall mean the last date for filing an appeal under this Act.

(*11*) Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine.

(*12*) Where a refund is withheld under sub-section (*11*), the taxable person shall, notwithstanding anything contained in section 56, be entitled to interest at such rate not exceeding six per cent. as may be notified on the recommendations of the Council, if as a result of the appeal or further proceedings he becomes entitled to refund.

(*13*) Notwithstanding anything to the contrary contained in this section, the amount of advance tax deposited by a casual taxable person or a non-resident taxable person under sub-section (*2*) of section 27, shall not be refunded unless such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under section 39.

(*14*) Notwithstanding anything contained in this section, no refund under sub-section (*5*) or sub-section (*6*) shall be paid to an applicant, if the amount is less than one thousand rupees.

Explanation.—For the purposes of this section,—

(*1*) "refund" includes refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilised input tax credit as provided under sub-section (*3*).

(*2*) "relevant date" means—

(*a*) in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods,—

(*i*) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or

(*ii*) if the goods are exported by land, the date on which such goods pass the frontier; or

(*iii*) if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;

(*b*) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;

(*c*) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of—

(*i*) receipt of payment in convertible foreign exchange, where the supply of services had been completed prior to the receipt of such payment; or

(*ii*) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;

(*d*) in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;

(*e*) in the case of refund of unutilised input tax credit under sub-section (*3*), the end of the financial year in which such claim for refund arises;

(*f*) in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;

(*g*) in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and

(*h*) in any other case, the date of payment of tax.

Refund in certain cases.

55. The Government may, on the recommendations of the Council, by notification, specify any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries and any other person or class of persons as may be specified in this behalf, who shall, subject to such conditions and restrictions as may be prescribed, be entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them. 46 of 1947.

Interest on delayed refunds.

56. If any tax ordered to be refunded under sub-section (*5*) of section 54 to any applicant is not refunded within sixty days from the date of receipt of application under sub-section (*1*) of that section, interest at such rate not exceeding six per cent. as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax:

Provided that where any claim of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same is not refunded within sixty days from the date of receipt of application filed consequent to such order, interest at such rate not exceeding nine per cent. as may be notified by the Government on the recommendations of the Council shall be payable in

respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund.

Explanation.—For the purposes of this section, where any order of refund is made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under sub-section (*5*) of section 54, the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section (*5*).

Consumer Welfare Fund.

57. The Government shall constitute a Fund, to be called the Consumer Welfare Fund and there shall be credited to the Fund,—

(*a*) the amount referred to in sub-section (*5*) of section 54;

(*b*) any income from investment of the amount credited to the Fund; and

(*c*) such other monies received by it,

in such manner as may be prescribed.

Utilisation of Fund.

58. (*1*) All sums credited to the Fund shall be utilised by the Government for the welfare of the consumers in such manner as may be prescribed.

(*2*) The Government or the authority specified by it shall maintain proper and separate account and other relevant records in relation to the Fund and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

CHAPTER XII

ASSESSMENT

Self-assessment.

59. Every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under section 39.

Provisional assessment.

60. (*1*) Subject to the provisions of sub-section (*2*), where the taxable person is unable to determine the value of goods or services or both or determine the rate of tax applicable thereto, he may request the proper officer in writing giving reasons for payment of tax on a provisional basis and the proper officer shall pass an order, within a period not later than ninety days from the date of receipt of such request, allowing payment of tax on provisional basis at such rate or on such value as may be specified by him.

(*2*) The payment of tax on provisional basis may be allowed, if the taxable person executes a bond in such form as may be prescribed, and with such surety or security as the proper officer may deem fit, binding the taxable person for payment of the difference between the amount of tax as may be finally assessed and the amount of tax provisionally assessed.

(*3*) The proper officer shall, within a period not exceeding six months from the date of the communication of the order issued under sub-section (*1*), pass the final assessment order after taking into account such information as may be required for finalizing the assessment:

Provided that the period specified in this sub-section may, on sufficient cause being shown and for reasons to be recorded in writing, be extended by the Joint Commissioner or Additional Commissioner for a further period not exceeding six months and by the Commissioner for such further period not exceeding four years.

(*4*) The registered person shall be liable to pay interest on any tax payable on the supply of goods or services or both under provisional assessment but not paid on the due date specified under sub-section (*7*) of section 39 or the rules made thereunder, at the rate specified under sub-section (*1*) of section 50, from the first day after the due date of payment of tax in respect of the said supply of goods or services or both till the date of actual

payment, whether such amount is paid before or after the issuance of order for final assessment.

(*5*) Where the registered person is entitled to a refund consequent to the order of final assessment under sub-section (*3*), subject to the provisions of sub-section (*8*) of section 54, interest shall be paid on such refund as provided in section 56.

Scrutiny of returns.

61. (*1*) The proper officer may scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in such manner as may be prescribed and seek his explanation thereto.

(*2*) In case the explanation is found acceptable, the registered person shall be informed accordingly and no further action shall be taken in this regard.

(*3*) In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action including those under section 65 or section 66 or section 67, or proceed to determine the tax and other dues under section 73 or section 74.

Assessment of non-filers of returns.

62. (*1*) Notwithstanding anything to the contrary contained in section 73 or section 74, where a registered person fails to furnish the return under section 39 or section 45, even after the service of a notice under section 46, the proper officer may proceed to assess the tax liability of the said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

(*2*) Where the registered person furnishes a valid return within thirty days of the service of the assessment order under sub-section (*1*), the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest under sub-section (*1*) of section 50 or for payment of late fee under section 47 shall continue.

Assessment of unregistered persons.

63. Notwithstanding anything to the contrary contained in section 73 or section 74, where a taxable person fails to obtain registration even though liable to do so or whose registration has been cancelled under sub-section (*2*) of section 29 but who was liable to pay tax, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgment for the relevant tax periods and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates:

Provided that no such assessment order shall be passed without giving the person an opportunity of being heard.

Summary assessment in certain special cases.

64. (*1*) The proper officer may, on any evidence showing a tax liability of a person coming to his notice, with the previous permission of Additional Commissioner or Joint Commissioner, proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order, if he has sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue:

Provided that where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and liable to pay tax and any other amount due under this section.

(*2*) On an application made by the taxable person within thirty days from the date of receipt of order passed under sub-section (*1*) or on his own motion, if the Additional Commissioner or Joint Commissioner considers that such order is erroneous, he may withdraw such order and follow the procedure laid down in section 73 or section 74.

CHAPTER XIII

AUDIT

Audit by tax authorities.

65. (*1*) The Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed.

(*2*) The officers referred to in sub-section (*1*) may conduct audit at the place of business of the registered person or in their office.

(*3*) The registered person shall be informed by way of a notice not less than fifteen working days prior to the conduct of audit in such manner as may be prescribed.

(*4*) The audit under sub-section (*1*) shall be completed within a period of three months from the date of commencement of the audit:

Provided that where the Commissioner is satisfied that audit in respect of such registered person cannot be completed within three months, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months.

Explanation.—For the purposes of this sub-section, the expression "commencement of audit" shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the registered person or the actual institution of audit at the place of business, whichever is later.

(*5*) During the course of audit, the authorised officer may require the registered person,—

(*i*) to afford him the necessary facility to verify the books of account or other documents as he may require;

(*ii*) to furnish such information as he may require and render assistance for timely completion of the audit.

(*6*) On conclusion of audit, the proper officer shall, within thirty days, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings.

(*7*) Where the audit conducted under sub-section (*1*) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74.

Special audit.

66. (*1*) If at any stage of scrutiny, inquiry, investigation or any other proceedings before him, any officer not below the rank of Assistant Commissioner, having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits, he may, with the prior approval of the Commissioner, direct such registered person by a communication in writing to get his records including books of account examined and audited by a chartered accountant or a cost accountant as may be nominated by the Commissioner.

(*2*) The chartered accountant or cost accountant so nominated shall, within the period of ninety days, submit a report of such audit duly signed and certified by him to the said Assistant Commissioner mentioning therein such other particulars as may be specified:

Provided that the Assistant Commissioner may, on an application made to him in this behalf by the registered person or the chartered accountant or cost accountant or for any material and sufficient reason, extend the said period by a further period of ninety days.

(*3*) The provisions of sub-section (*1*) shall have effect notwithstanding that the accounts of the registered person have been audited under any other provisions of this Act or any other law for the time being in force.

(*4*) The registered person shall be given an opportunity of being heard in respect of any material gathered on the basis of special audit under sub-section (*1*) which is proposed to be used in any proceedings against him under this Act or the rules made thereunder.

(*5*) The expenses of the examination and audit of records under sub-section (*1*), including the remuneration of such chartered accountant or cost accountant, shall be determined and paid by the Commissioner and such determination shall be final.

(*6*) Where the special audit conducted under sub-section (*1*) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74.

CHAPTER XIV

INSPECTION, SEARCH, SEIZURE AND ARREST

Power of inspection, search and seizure.

67. (*1*) Where the proper officer, not below the rank of Joint Commissioner, has reasons to believe that—

(*a*) a taxable person has suppressed any transaction relating to supply of goods or services or both or the stock of goods in hand, or has claimed input tax credit in excess of his entitlement under this Act or has indulged in contravention of any of the provisions of this Act or the rules made thereunder to evade tax under this Act; or

(*b*) any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act,

he may authorise in writing any other officer of central tax to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.

(*2*) Where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (*1*) or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any other officer of central tax to search and seize or may himself search and seize such goods, documents or books or things:

Provided that where it is not practicable to seize any such goods, the proper officer, or any officer authorised by him, may serve on the owner or the custodian of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:

Provided further that the documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceedings under this Act.

(*3*) The documents, books or things referred to in sub-section (*2*) or any other documents, books or things produced by a taxable person or any other person, which have not been relied upon for the issue of notice under this Act or the rules made thereunder, shall be returned to such person within a period not exceeding thirty days of the issue of the said notice.

(*4*) The officer authorised under sub-section (*2*) shall have the power to seal or break open the door of any premises or to break open any *almirah*, electronic devices, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, where access to such premises, *almirah*, electronic devices, box or receptacle is denied.

(*5*) The person from whose custody any documents are seized under sub-section (*2*) shall be entitled to make copies thereof or take extracts therefrom in the presence of an

authorised officer at such place and time as such officer may indicate in this behalf except where making such copies or taking such extracts may, in the opinion of the proper officer, prejudicially affect the investigation.

(*6*) The goods so seized under sub-section (*2*) shall be released, on a provisional basis, upon execution of a bond and furnishing of a security, in such manner and of such quantum, respectively, as may be prescribed or on payment of applicable tax, interest and penalty payable, as the case may be.

(*7*) Where any goods are seized under sub-section (*2*) and no notice in respect thereof is given within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

Provided that the period of six months may, on sufficient cause being shown, be extended by the proper officer for a further period not exceeding six months.

(*8*) The Government may, having regard to the perishable or hazardous nature of any goods, depreciation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations, by notification, specify the goods or class of goods which shall, as soon as may be after its seizure under sub-section (*2*), be disposed of by the proper officer in such manner as may be prescribed.

(*9*) Where any goods, being goods specified under sub-section (*8*), have been seized by a proper officer, or any officer authorised by him under sub-section (*2*), he shall prepare an inventory of such goods in such manner as may be prescribed.

2 of 1974.

(*10*) The provisions of the Code of Criminal Procedure, 1973, relating to search and seizure, shall, so far as may be, apply to search and seizure under this section subject to the modification that sub-section (*5*) of section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the word "Commissioner" were substituted.

(*11*) Where the proper officer has reasons to believe that any person has evaded or is attempting to evade the payment of any tax, he may, for reasons to be recorded in writing, seize the accounts, registers or documents of such person produced before him and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with any proceedings under this Act or the rules made thereunder for prosecution.

(*12*) The Commissioner or an officer authorised by him may cause purchase of any goods or services or both by any person authorised by him from the business premises of any taxable person, to check the issue of tax invoices or bills of supply by such taxable person, and on return of goods so purchased by such officer, such taxable person or any person in charge of the business premises shall refund the amount so paid towards the goods after cancelling any tax invoice or bill of supply issued earlier.

Inspection of goods in movement.

68. (*1*) The Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.

(*2*) The details of documents required to be carried under sub-section (*1*) shall be validated in such manner as may be prescribed.

(*3*) Where any conveyance referred to in sub-section (*1*) is intercepted by the proper officer at any place, he may require the person in charge of the said conveyance to produce the documents prescribed under the said sub-section and devices for verification, and the said person shall be liable to produce the documents and devices and also allow the inspection of goods.

Power to arrest.

69. (*1*) Where the Commissioner has reasons to believe that a person has committed any offence specified in clause (*a*) or clause (*b*) or clause (*c*) or clause (*d*) of sub-section (*1*) of section 132 which is punishable under clause (*i*) or (*ii*) of

sub-section (*1*), or sub-section (*2*) of the said section, he may, by order, authorise any officer of central tax to arrest such person.

(*2*) Where a person is arrested under sub-section (*1*) for an offence specified under sub-section (*5*) of section 132, the officer authorised to arrest the person shall inform such person of the grounds of arrest and produce him before a Magistrate within twenty-four hours.

(*3*) Subject to the provisions of the Code of Criminal Procedure, 1973,— 2 of 1974.

(*a*) where a person is arrested under sub-section (*1*) for any offence specified under sub-section (*4*) of section 132, he shall be admitted to bail or in default of bail, forwarded to the custody of the Magistrate;

(*b*) in the case of a non-cognizable and bailable offence, the Deputy Commissioner or the Assistant Commissioner shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station.

Power to summon persons to give evidence and produce documents.

70. (*1*) The proper officer under this Act shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908. 5 of 1908

(*2*) Every such inquiry referred to in sub-section (*1*) shall be deemed to be a "judicial proceedings" within the meaning of section 193 and section 228 of the Indian Penal Code. 45 of 1860.

Access to business premises.

71. (*1*) Any officer under this Act, authorised by the proper officer not below the rank of Joint Commissioner, shall have access to any place of business of a registered person to inspect books of account, documents, computers, computer programs, computer software whether installed in a computer or otherwise and such other things as he may require and which may be available at such place, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

(*2*) Every person in charge of place referred to in sub-section (*1*) shall, on demand, make available to the officer authorised under sub-section (*1*) or the audit party deputed by the proper officer or a cost accountant or chartered accountant nominated under section 66—

(*i*) such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;

(*ii*) trial balance or its equivalent;

(*iii*) statements of annual financial accounts, duly audited, wherever required;

(*iv*) cost audit report, if any, under section 148 of the Companies Act, 2013; 18 of 2013.

(*v*) the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961; and 43 of 1961.

(*vi*) any other relevant record,

for the scrutiny by the officer or audit party or the chartered accountant or cost accountant within a period not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the chartered accountant or cost accountant.

Officers to assist proper officers.

72. (*1*) All officers of Police, Railways, Customs, and those officers engaged in the collection of land revenue, including village officers, officers of State tax and officers of Union territory tax shall assist the proper officers in the implementation of this Act.

(*2*) The Government may, by notification, empower and require any other class of officers to assist the proper officers in the implementation of this Act when called upon to do so by the Commissioner.

CHAPTER XV

DEMANDS AND RECOVERY

Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful-misstatement or suppression of facts.

73. (*1*) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.

(*2*) The proper officer shall issue the notice under sub-section (*1*) at least three months prior to the time limit specified in sub-section (*10*) for issuance of order.

(*3*) Where a notice has been issued for any period under sub-section (*1*), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (*1*), on the person chargeable with tax.

(*4*) The service of such statement shall be deemed to be service of notice on such person under sub-section (*1*), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (*1*) are the same as are mentioned in the earlier notice.

(*5*) The person chargeable with tax may, before service of notice under sub-section (*1*) or, as the case may be, the statement under sub-section (*3*), pay the amount of tax along with interest payable thereon under section 50 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.

(*6*) The proper officer, on receipt of such information, shall not serve any notice under sub-section (*1*) or, as the case may be, the statement under sub-section (*3*), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.

(*7*) Where the proper officer is of the opinion that the amount paid under sub-section (*5*) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (*1*) in respect of such amount which falls short of the amount actually payable.

(*8*) Where any person chargeable with tax under sub-section (*1*) or sub-section (*3*) pays the said tax along with interest payable under section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.

(*9*) The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.

(*10*) The proper officer shall issue the order under sub-section (*9*) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.

(*11*) Notwithstanding anything contained in sub-section (*6*) or sub-section (*8*), penalty under sub-section (*9*) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.

Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful-misstatement or suppression of facts.

74. (*1*) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.

(*2*) The proper officer shall issue the notice under sub-section (*1*) at least six months prior to the time limit specified in sub-section (*10*) for issuance of order.

(*3*) Where a notice has been issued for any period under sub-section (*1*), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (*1*), on the person chargeable with tax.

(*4*) The service of statement under sub-section (*3*) shall be deemed to be service of notice under sub-section (*1*) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under sub-section (*1*) are the same as are mentioned in the earlier notice.

(*5*) The person chargeable with tax may, before service of notice under sub-section (*1*), pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent. of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.

(*6*) The proper officer, on receipt of such information, shall not serve any notice under sub-section (*1*), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.

(*7*) Where the proper officer is of the opinion that the amount paid under sub-section (*5*) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (*1*) in respect of such amount which falls short of the amount actually payable.

(*8*) Where any person chargeable with tax under sub-section (*1*) pays the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent. of such tax within thirty days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded.

(*9*) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.

(*10*) The proper officer shall issue the order under sub-section (*9*) within a period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.

(*11*) Where any person served with an order issued under sub-section (*9*) pays the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent. of such tax within thirty days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded.

Explanation 1.—For the purposes of section 73 and this section,—

(*i*) the expression "all proceedings in respect of the said notice" shall not include proceedings under section 132;

(*ii*) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under sections 122, 125, 129 and 130 are deemed to be concluded.

Explanation 2.—For the purposes of this Act, the expression "suppression" shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer.

General provisions relating to determination of tax.

75. (*1*) Where the service of notice or issuance of order is stayed by an order of a court or Appellate Tribunal, the period of such stay shall be excluded in computing the period specified in sub-sections (*2*) and (*10*) of section 73 or sub-sections (*2*) and (*10*) of section 74, as the case may be.

(*2*) Where any Appellate Authority or Appellate Tribunal or court concludes that the notice issued under sub-section (*1*) of section 74 is not sustainable for the reason that the charges of fraud or any wilful-misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person, deeming as if the notice were issued under sub-section (*1*) of section 73.

(*3*) Where any order is required to be issued in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court, such order shall be issued within two years from the date of communication of the said direction.

(*4*) An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.

(*5*) The proper officer shall, if sufficient cause is shown by the person chargeable with tax, grant time to the said person and adjourn the hearing for reasons to be recorded in writing:

Provided that no such adjournment shall be granted for more than three times to a person during the proceedings.

(*6*) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

(*7*) The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice.

(*8*) Where the Appellate Authority or Appellate Tribunal or court modifies the amount of tax determined by the proper officer, the amount of interest and penalty shall stand modified accordingly, taking into account the amount of tax so modified.

(*9*) The interest on the tax short paid or not paid shall be payable whether or not specified in the order determining the tax liability.

(*10*) The adjudication proceedings shall be deemed to be concluded, if the order is not issued within three years as provided for in sub-section (*10*) of section 73 or within five years as provided for in sub-section (*10*) of section 74.

(*11*) An issue on which the Appellate Authority or the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the Appellate Tribunal or the High Court or the Supreme Court against such decision of the Appellate Authority or the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate

Authority and that of the Appellate Tribunal or the date of decision of the Appellate Tribunal and that of the High Court or the date of the decision of the High Court and that of the Supreme Court shall be excluded in computing the period referred to in sub-section (*10*) of section 73 or sub-section (*10*) of section 74 where proceedings are initiated by way of issue of a show cause notice under the said sections.

(*12*) Notwithstanding anything contained in section 73 or section 74, where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79.

(*13*) Where any penalty is imposed under section 73 or section 74, no penalty for the same act or omission shall be imposed on the same person under any other provision of this Act.

Tax collected but not paid to Government.

76. (*1*) Notwithstanding anything to the contrary contained in any order or direction of any Appellate Authority or Appellate Tribunal or court or in any other provisions of this Act or the rules made thereunder or any other law for the time being in force, every person who has collected from any other person any amount as representing the tax under this Act, and has not paid the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not.

(*2*) Where any amount is required to be paid to the Government under sub-section (*1*), and which has not been so paid, the proper officer may serve on the person liable to pay such amount a notice requiring him to show cause as to why the said amount as specified in the notice, should not be paid by him to the Government and why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of this Act.

(*3*) The proper officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (*2*), determine the amount due from such person and thereupon such person shall pay the amount so determined.

(*4*) The person referred to in sub-section (*1*) shall in addition to paying the amount referred to in sub-section (*1*) or sub-section (*3*) also be liable to pay interest thereon at the rate specified under section 50 from the date such amount was collected by him to the date such amount is paid by him to the Government.

(*5*) An opportunity of hearing shall be granted where a request is received in writing from the person to whom the notice was issued to show cause.

(*6*) The proper officer shall issue an order within one year from the date of issue of the notice.

(*7*) Where the issuance of order is stayed by an order of the court or Appellate Tribunal, the period of such stay shall be excluded in computing the period of one year.

(*8*) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

(*9*) The amount paid to the Government under sub-section (*1*) or sub-section (*3*) shall be adjusted against the tax payable, if any, by the person in relation to the supplies referred to in sub-section (*1*).

(*10*) Where any surplus is left after the adjustment under sub-section (*9*), the amount of such surplus shall either be credited to the Fund or refunded to the person who has borne the incidence of such amount.

(*11*) The person who has borne the incidence of the amount, may apply for the refund of the same in accordance with the provisions of section 54.

Tax wrongfully collected and paid to Central Government or State Government.

77. (*1*) A registered person who has paid the Central tax and State tax or, as the case may be, the Central tax and the Union territory tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.

(*2*) A registered person who has paid integrated tax on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall not be required to pay any interest on the amount of central tax and State tax or, as the case may be, the Central tax and the Union territory tax payable.

Initiation of recovery proceedings.

78. Any amount payable by a taxable person in pursuance of an order passed under this Act shall be paid by such person within a period of three months from the date of service of such order failing which recovery proceedings shall be initiated:

Provided that where the proper officer considers it expedient in the interest of revenue, he may, for reasons to be recorded in writing, require the said taxable person to make such payment within such period less than a period of three months as may be specified by him.

Recovery of tax.

79. (*1*) Where any amount payable by a person to the Government under any of the provisions of this Act or the rules made thereunder is not paid, the proper officer shall proceed to recover the amount by one or more of the following modes, namely:—

(*a*) the proper officer may deduct or may require any other specified officer to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other specified officer;

(*b*) the proper officer may recover or may require any other specified officer to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the proper officer or such other specified officer;

(*c*) (*i*) the proper officer may, by a notice in writing, require any other person from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the Government either forthwith upon the money becoming due or being held, or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount;

(*ii*) every person to whom the notice is issued under sub-clause (*i*) shall be bound to comply with such notice, and in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary;

(*iii*) in case the person to whom a notice under sub-clause (*i*) has been issued, fails to make the payment in pursuance thereof to the Government, he shall be deemed to be a defaulter in respect of the amount specified in the notice and all the consequences of this Act or the rules made thereunder shall follow;

(*iv*) the officer issuing a notice under sub-clause (*i*) may, at any time, amend or revoke such notice or extend the time for making any payment in pursuance of the notice;

(*v*) any person making any payment in compliance with a notice issued under sub-clause (*i*) shall be deemed to have made the payment under the authority of the person in default and such payment being credited to the Government shall be deemed

to constitute a good and sufficient discharge of the liability of such person to the person in default to the extent of the amount specified in the receipt;

(*vi*) any person discharging any liability to the person in default after service on him of the notice issued under sub-clause (*i*) shall be personally liable to the Government to the extent of the liability discharged or to the extent of the liability of the person in default for tax, interest and penalty, whichever is less;

(*vii*) where a person on whom a notice is served under sub-clause (*i*) proves to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold any money for or on account of the person in default, at the time the notice was served on him, nor is the money demanded or any part thereof, likely to become due to the said person or be held for or on account of such person, nothing contained in this section shall be deemed to require the person on whom the notice has been served to pay to the Government any such money or part thereof;

(*d*) the proper officer may, in accordance with the rules to be made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus amount, if any, to such person;

(*e*) the proper officer may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business or to any officer authorised by the Government and the said Collector or the said officer, on receipt of such certificate, shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue;

(*f*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the proper officer may file an application to the appropriate Magistrate and such Magistrate shall proceed to recover from such person the amount specified thereunder as if it were a fine imposed by him. 2 of 1974.

(*2*) Where the terms of any bond or other instrument executed under this Act or any rules or regulations made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (*1*), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.

(*3*) Where any amount of tax, interest or penalty is payable by a person to the Government under any of the provisions of this Act or the rules made thereunder and which remains unpaid, the proper officer of State tax or Union territory tax, during the course of recovery of said tax arrears, may recover the amount from the said person as if it were an arrear of State tax or Union territory tax and credit the amount so recovered to the account of the Government.

(*4*) Where the amount recovered under sub-section (*3*) is less than the amount due to the Central Government and State Government, the amount to be credited to the account of the respective Governments shall be in proportion to the amount due to each such Government.

Payment of tax and other amount in instalments.

80. On an application filed by a taxable person, the Commissioner may, for reasons to be recorded in writing, extend the time for payment or allow payment of any amount due under this Act, other than the amount due as per the liability self-assessed in any return, by such person in monthly instalments not exceeding twenty four, subject to payment of interest under section 50 and subject to such conditions and limitations as may be prescribed:

Provided that where there is default in payment of any one instalment on its due date, the whole outstanding balance payable on such date shall become due and payable forthwith and shall, without any further notice being served on the person, be liable for recovery.

Transfer of property to be void in certain cases.

81. Where a person, after any amount has become due from him, creates a charge on or parts with the property belonging to him or in his possession by way of sale, mortgage, exchange, or any other mode of transfer whatsoever of any of his properties in favour of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the said person:

Provided that, such charge or transfer shall not be void if it is made for adequate consideration, in good faith and without notice of the pendency of such proceedings under this Act or without notice of such tax or other sum payable by the said person, or with the previous permission of the proper officer.

Tax to be first charge on property.

31 of 2016.

82. Notwithstanding anything to the contrary contained in any law for the time being in force, save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, any amount payable by a taxable person or any other person on account of tax, interest or penalty which he is liable to pay to the Government shall be a first charge on the property of such taxable person or such person.

Provisional attachment to protect revenue in certain cases.

83. (*1*) Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed.

(*2*) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (*1*).

Continuation and validation of certain recovery proceedings.

84. Where any notice of demand in respect of any tax, penalty, interest or any other amount payable under this Act, (hereafter in this section referred to as "Government dues"), is served upon any taxable person or any other person and any appeal or revision application is filed or any other proceedings is initiated in respect of such Government dues, then—

(*a*) where such Government dues are enhanced in such appeal, revision or other proceedings, the Commissioner shall serve upon the taxable person or any other person another notice of demand in respect of the amount by which such Government dues are enhanced and any recovery proceedings in relation to such Government dues as are covered by the notice of demand served upon him before the disposal of such appeal, revision or other proceedings may, without the service of any fresh notice of demand, be continued from the stage at which such proceedings stood immediately before such disposal;

(*b*) where such Government dues are reduced in such appeal, revision or in other proceedings—

(*i*) it shall not be necessary for the Commissioner to serve upon the taxable person a fresh notice of demand;

(*ii*) the Commissioner shall give intimation of such reduction to him and to the appropriate authority with whom recovery proceedings is pending;

(*iii*) any recovery proceedings initiated on the basis of the demand served upon him prior to the disposal of such appeal, revision or other proceedings may

be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal.

CHAPTER XVI

LIABILITY TO PAY IN CERTAIN CASES

Liability in case of transfer of business.

85. (*1*) Where a taxable person, liable to pay tax under this Act, transfers his business in whole or in part, by sale, gift, lease, leave and license, hire or in any other manner whatsoever, the taxable person and the person to whom the business is so transferred shall, jointly and severally, be liable wholly or to the extent of such transfer, to pay the tax, interest or any penalty due from the taxable person upto the time of such transfer, whether such tax, interest or penalty has been determined before such transfer, but has remained unpaid or is determined thereafter.

(*2*) Where the transferee of a business referred to in sub-section (*1*) carries on such business either in his own name or in some other name, he shall be liable to pay tax on the supply of goods or services or both effected by him with effect from the date of such transfer and shall, if he is a registered person under this Act, apply within the prescribed time for amendment of his certificate of registration.

Liability of agent and principal.

86. Where an agent supplies or receives any taxable goods on behalf of his principal, such agent and his principal shall, jointly and severally, be liable to pay the tax payable on such goods under this Act.

Liability in case of amalgamation or merger of companies.

87. (*1*) When two or more companies are amalgamated or merged in pursuance of an order of court or of Tribunal or otherwise and the order is to take effect from a date earlier to the date of the order and any two or more of such companies have supplied or received any goods or services or both to or from each other during the period commencing on the date from which the order takes effect till the date of the order, then such transactions of supply and receipt shall be included in the turnover of supply or receipt of the respective companies and they shall be liable to pay tax accordingly.

(*2*) Notwithstanding anything contained in the said order, for the purposes of this Act, the said two or more companies shall be treated as distinct companies for the period up to the date of the said order and the registration certificates of the said companies shall be cancelled with effect from the date of the said order.

Liability in case of company in liquidation.

88. (*1*) When any company is being wound up whether under the orders of a court or Tribunal or otherwise, every person appointed as receiver of any assets of a company (hereafter in this section referred to as the "liquidator"), shall, within thirty days after his appointment, give intimation of his appointment to the Commissioner.

(*2*) The Commissioner shall, after making such inquiry or calling for such information as he may deem fit, notify the liquidator within three months from the date on which he receives intimation of the appointment of the liquidator, the amount which in the opinion of the Commissioner would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter to become, payable by the company.

(*3*) When any private company is wound up and any tax, interest or penalty determined under this Act on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of such company at any time during the period for which the tax was due shall, jointly and severally, be liable for the payment of such tax, interest or penalty, unless he proves to the satisfaction of the Commissioner that such non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

Liability of directors of private company.

89. (*1*) Notwithstanding anything contained in the Companies Act, 2013, where any tax, interest or penalty due from a private company in respect of any supply of goods or services or both for any period cannot be recovered, then, every person who was a director of the private company during such period shall, jointly and severally, be liable for the 18 of 2013.

payment of such tax, interest or penalty unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(*2*) Where a private company is converted into a public company and the tax, interest or penalty in respect of any supply of goods or services or both for any period during which such company was a private company cannot be recovered before such conversion, then, nothing contained in sub-section (*1*) shall apply to any person who was a director of such private company in relation to any tax, interest or penalty in respect of such supply of goods or services or both of such private company:

Provided that nothing contained in this sub-section shall apply to any personal penalty imposed on such director.

Liability of partners of firm to pay tax.

90. Notwithstanding any contract to the contrary and any other law for the time being in force, where any firm is liable to pay any tax, interest or penalty under this Act, the firm and each of the partners of the firm shall, jointly and severally, be liable for such payment:

Provided that where any partner retires from the firm, he or the firm, shall intimate the date of retirement of the said partner to the Commissioner by a notice in that behalf in writing and such partner shall be liable to pay tax, interest or penalty due up to the date of his retirement whether determined or not, on that date:

Provided further that if no such intimation is given within one month from the date of retirement, the liability of such partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

Liability of guardians, trustees, etc.

91. Where the business in respect of which any tax, interest or penalty is payable under this Act is carried on by any guardian, trustee or agent of a minor or other incapacitated person on behalf of and for the benefit of such minor or other incapacitated person, the tax, interest or penalty shall be levied upon and recoverable from such guardian, trustee or agent in like manner and to the same extent as it would be determined and recoverable from any such minor or other incapacitated person, as if he were a major or capacitated person and as if he were conducting the business himself, and all the provisions of this Act or the rules made thereunder shall apply accordingly.

Liability of Court of Wards, etc.

92. Where the estate or any portion of the estate of a taxable person owning a business in respect of which any tax, interest or penalty is payable under this Act is under the control of the Court of Wards, the Administrator General, the Official Trustee or any receiver or manager (including any person, whatever be his designation, who in fact manages the business) appointed by or under any order of a court, the tax, interest or penalty shall be levied upon and be recoverable from such Court of Wards, Administrator General, Official Trustee, receiver or manager in like manner and to the same extent as it would be determined and be recoverable from the taxable person as if he were conducting the business himself, and all the provisions of this Act or the rules made thereunder shall apply accordingly.

31of 2016.

Special provisions regarding liability to pay tax, interest or penalty in certain cases.

93. (*1*) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a person, liable to pay tax, interest or penalty under this Act, dies, then—

(*a*) if a business carried on by the person is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay tax, interest or penalty due from such person under this Act; and

(*b*) if the business carried on by the person is discontinued, whether before or after his death, his legal representative shall be liable to pay, out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, interest or penalty due from such person under this Act,

whether such tax, interest or penalty has been determined before his death but has remained unpaid or is determined after his death.

(*2*) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person, liable to pay tax, interest or penalty under this Act, is a Hindu Undivided Family or an association of persons and the property of the Hindu Undivided Family or the association of persons is partitioned amongst the various members or groups of members, then, each member or group of members shall, jointly and severally, be liable to pay the tax, interest or penalty due from the taxable person under this Act up to the time of the partition whether such tax, penalty or interest has been determined before partition but has remained unpaid or is determined after the partition. 31 of 2016.

(*3*) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person, liable to pay tax, interest or penalty under this Act, is a firm, and the firm is dissolved, then, every person who was a partner shall, jointly and severally, be liable to pay the tax, interest or penalty due from the firm under this Act up to the time of dissolution whether such tax, interest or penalty has been determined before the dissolution, but has remained unpaid or is determined after dissolution. 31 of 2016.

(*4*) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person liable to pay tax, interest or penalty under this Act,— 31 of 2016.

(*a*) is the guardian of a ward on whose behalf the business is carried on by the guardian; or

(*b*) is a trustee who carries on the business under a trust for a beneficiary,

then, if the guardianship or trust is terminated, the ward or the beneficiary shall be liable to pay the tax, interest or penalty due from the taxable person upto the time of the termination of the guardianship or trust, whether such tax, interest or penalty has been determined before the termination of guardianship or trust but has remained unpaid or is determined thereafter.

Liability in other cases.

94. (*1*) Where a taxable person is a firm or an association of persons or a Hindu Undivided Family and such firm, association or family has discontinued business—

(*a*) the tax, interest or penalty payable under this Act by such firm, association or family up to the date of such discontinuance may be determined as if no such discontinuance had taken place; and

(*b*) every person who, at the time of such discontinuance, was a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance, jointly and severally, be liable for the payment of tax and interest determined and penalty imposed and payable by such firm, association or family, whether such tax and interest has been determined or penalty imposed prior to or after such discontinuance and subject as aforesaid, the provisions of this Act shall, so far as may be, apply as if every such person or partner or member were himself a taxable person.

(*2*) Where a change has occurred in the constitution of a firm or an association of persons, the partners of the firm or members of association, as it existed before and as it exists after the reconstitution, shall, without prejudice to the provisions of section 90, jointly and severally, be liable to pay tax, interest or penalty due from such firm or association for any period before its reconstitution.

(*3*) The provisions of sub-section (*1*) shall, so far as may be, apply where the taxable person, being a firm or association of persons is dissolved or where the taxable person, being a Hindu Undivided Family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as reference to dissolution or to partition.

Explanation.—For the purposes of this Chapter,—

(*i*) a "Limited Liability Partnership" formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a firm; 6 of 2009.

(*ii*) "court" means the District Court, High Court or Supreme Court.

CHAPTER XVII

ADVANCE RULING

Definitions.

95. In this Chapter, unless the context otherwise requires,—

(*a*) "advance ruling" means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (*2*) of section 97 or sub-section (*1*) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;

(*b*) "Appellate Authority" means the Appellate Authority for Advance Ruling referred to in section 99;

(*c*) "applicant" means any person registered or desirous of obtaining registration under this Act;

(*d*) "application" means an application made to the Authority under sub-section (*1*) of section 97;

(*e*) "Authority" means the Authority for Advance Ruling referred to in section 96.

Authority for advance ruling.

96. Subject to the provisions of this Chapter, for the purposes of this Act, the Authority for advance ruling constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for advance ruling in respect of that State or Union territory.

Application for advance ruling.

97. (*1*) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.

(*2*) The question on which the advance ruling is sought under this Act, shall be in respect of,—

(*a*) classification of any goods or services or both;

(*b*) applicability of a notification issued under the provisions of this Act;

(*c*) determination of time and value of supply of goods or services or both;

(*d*) admissibility of input tax credit of tax paid or deemed to have been paid;

(*e*) determination of the liability to pay tax on any goods or services or both;

(*f*) whether applicant is required to be registered;

(*g*) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

Procedure on receipt of application.

98. (*1*) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the concerned officer and, if necessary, call upon him to furnish the relevant records:

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the said concerned officer.

(*2*) The Authority may, after examining the application and the records called for and after hearing the applicant or his authorised representative and the concerned officer or his authorised representative, by order, either admit or reject the application:

Provided that the Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act:

Provided further that no application shall be rejected under this sub-section unless an opportunity of hearing has been given to the applicant:

Provided also that where the application is rejected, the reasons for such rejection shall be specified in the order.

(*3*) A copy of every order made under sub-section (*2*) shall be sent to the applicant and to the concerned officer.

(*4*) Where an application is admitted under sub-section (*2*), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority and after providing an opportunity of being heard to the applicant or his authorised representative as well as to the concerned officer or his authorised representative, pronounce its advance ruling on the question specified in the application.

(*5*) Where the members of the Authority differ on any question on which the advance ruling is sought, they shall state the point or points on which they differ and make a reference to the Appellate Authority for hearing and decision on such question.

(*6*) The Authority shall pronounce its advance ruling in writing within ninety days from the date of receipt of application.

(*7*) A copy of the advance ruling pronounced by the Authority duly signed by the members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer and the jurisdictional officer after such pronouncement.

Appellate Authority for Advance Ruling.

99. Subject to the provisions of this Chapter, for the purposes of this Act, the Appellate Authority for Advance Ruling constituted under the provisions of a State Goods and Services Tax Act or a Union Territory Goods and Services Tax Act shall be deemed to be the Appellate Authority in respect of that State or Union territory.

Appeal to Appellate Authority.

100. (*1*) The concerned officer, the jurisdictional officer or an applicant aggrieved by any advance ruling pronounced under sub-section (*4*) of section 98, may appeal to the Appellate Authority.

(*2*) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the concerned officer, the jurisdictional officer and the applicant:

Provided that the Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, allow it to be presented within a further period not exceeding thirty days.

(*3*) Every appeal under this section shall be in such form, accompanied by such fee and verified in such manner as may be prescribed.

Orders of Appellate Authority.

101. (*1*) The Appellate Authority may, after giving the parties to the appeal or reference an opportunity of being heard, pass such order as it thinks fit, confirming or modifying the ruling appealed against or referred to.

(*2*) The order referred to in sub-section (*1*) shall be passed within a period of ninety days from the date of filing of the appeal under section 100 or a reference under sub-section (*5*) of section 98.

(*3*) Where the members of the Appellate Authority differ on any point or points referred to in appeal or reference, it shall be deemed that no advance ruling can be issued in respect of the question under the appeal or reference.

(*4*) A copy of the advance ruling pronounced by the Appellate Authority duly signed by the Members and certified in such manner as may be prescribed shall be sent to the

applicant, the concerned officer, the jurisdictional officer and to the Authority after such pronouncement.

Rectification of advance ruling.

102. The Authority or the Appellate Authority may amend any order passed by it under section 98 or section 101, so as to rectify any error apparent on the face of the record, if such error is noticed by the Authority or the Appellate Authority on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer, the applicant or the appellant within a period of six months from the date of the order:

Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made unless the applicant or the appellant has been given an opportunity of being heard.

Applicability of advance ruling.

103. (*1*) The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only—

(*a*) on the applicant who had sought it in respect of any matter referred to in sub-section (*2*) of section 97 for advance ruling;

(*b*) on the concerned officer or the jurisdictional officer in respect of the applicant.

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(*2*) The advance ruling referred to in sub-section (*1*) shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

Advance ruling to be void in certain circumstances.

104. (*1*) Where the Authority or the Appellate Authority finds that advance ruling pronounced by it under sub-section (*4*) of section 98 or under sub-section (*1*) of section 101 has been obtained by the applicant or the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void *ab-initio* and thereupon all the provisions of this Act or the rules made thereunder shall apply to the applicant or the appellant as if such advance ruling had never been made:

Provided that no order shall be passed under this sub-section unless an opportunity of being heard has been given to the applicant or the appellant.

Explanation.—The period beginning with the date of such advance ruling and ending with the date of order under this sub-section shall be excluded while computing the period specified in sub-sections (*2*) and (*10*) of section 73 or sub-sections (*2*) and (*10*) of section 74.

(*2*) A copy of the order made under sub-section (*1*) shall be sent to the applicant, the concerned officer and the jurisdictional officer.

Powers of Authority and Appellate Authority.

105. (*1*) The Authority or the Appellate Authority shall, for the purpose of exercising its powers regarding—

(*a*) discovery and inspection;

(*b*) enforcing the attendance of any person and examining him on oath;

(*c*) issuing commissions and compelling production of books of account and other records,

5 of 1908. have all the powers of a civil court under the Code of Civil Procedure, 1908.

(*2*) The Authority or the Appellate Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal 2 of 1974. Procedure, 1973, and every proceeding before the Authority or the Appellate Authority shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228, and for 45 of 1860. the purpose of section 196 of the Indian Penal Code.

Procedure of Authority and Appellate Authority.

106. The Authority or the Appellate Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure.

CHAPTER XVIII

APPEALS AND REVISION

Appeals to Appellate Authority.

107. (*1*) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.

(*2*) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or the Commissioner of Union territory tax, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any officer subordinate to him to apply to the Appellate Authority within six months from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order.

(*3*) Where, in pursuance of an order under sub-section (*2*), the authorised officer makes an application to the Appellate Authority, such application shall be dealt with by the Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and such authorised officer were an appellant and the provisions of this Act relating to appeals shall apply to such application.

(*4*) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month.

(*5*) Every appeal under this section shall be in such form and shall be verified in such manner as may be prescribed.

(*6*) No appeal shall be filed under sub-section (*1*), unless the appellant has paid—

(*a*) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and

(*b*) a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order, in relation to which the appeal has been filed.

(*7*) Where the appellant has paid the amount under sub-section (*6*), the recovery proceedings for the balance amount shall be deemed to be stayed.

(*8*) The Appellate Authority shall give an opportunity to the appellant of being heard.

(*9*) The Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

(*10*) The Appellate Authority may, at the time of hearing of an appeal, allow an appellant to add any ground of appeal not specified in the grounds of appeal, if it is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

(*11*) The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order:

Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

Provided further that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or section 74.

(*12*) The order of the Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for such decision.

(*13*) The Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:

Provided that where the issuance of order is stayed by an order of a court or Tribunal, the period of such stay shall be excluded in computing the period of one year.

(*14*) On disposal of the appeal, the Appellate Authority shall communicate the order passed by it to the appellant, respondent and to the adjudicating authority.

(*15*) A copy of the order passed by the Appellate Authority shall also be sent to the jurisdictional Commissioner or the authority designated by him in this behalf and the jurisdictional Commissioner of State tax or Commissioner of Union Territory Tax or an authority designated by him in this behalf.

(*16*) Every order passed under this section shall, subject to the provisions of section 108 or section 113 or section 117 or section 118 be final and binding on the parties.

Powers of Revisional Authority.

108. (*1*) Subject to the provisions of section 121 and any rules made thereunder, the Revisional Authority may, on his own motion, or upon information received by him or on request from the Commissioner of State tax, or the Commissioner of Union territory tax, call for and examine the record of any proceedings, and if he considers that any decision or order passed under this Act or under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by any officer subordinate to him is erroneous in so far as it is prejudicial to the interest of revenue and is illegal or improper or has not taken into account certain material facts, whether available at the time of issuance of the said order or not or in consequence of an observation by the Comptroller and Auditor General of India, he may, if necessary, stay the operation of such decision or order for such period as he deems fit and after giving the person concerned an opportunity of being heard and after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, including enhancing or modifying or annulling the said decision or order.

(*2*) The Revisional Authority shall not exercise any power under sub-section (*1*), if—

(*a*) the order has been subject to an appeal under section 107 or section 112 or section 117 or section 118; or

(*b*) the period specified under sub-section (*2*) of section 107 has not yet expired or more than three years have expired after the passing of the decision or order sought to be revised; or

(*c*) the order has already been taken for revision under this section at an earlier stage; or

(*d*) the order has been passed in exercise of the powers under sub-section (*1*):

Provided that the Revisional Authority may pass an order under sub-section (*1*) on any point which has not been raised and decided in an appeal referred to in clause (*a*) of sub-section (*2*), before the expiry of a period of one year from the date of the order in such appeal or before the expiry of a period of three years referred to in clause (*b*) of that sub-section, whichever is later.

(*3*) Every order passed in revision under sub-section (*1*) shall, subject to the provisions of section 113 or section 117 or section 118, be final and binding on the parties.

(*4*) If the said decision or order involves an issue on which the Appellate Tribunal or the High Court has given its decision in some other proceedings and an appeal to the High Court or the Supreme Court against such decision of the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Tribunal and the date of the decision of the High Court or the date of the decision of the High Court and the date of the decision of the Supreme Court shall be excluded in computing the period of limitation referred to in clause (*b*) of sub-section (*2*) where proceedings for revision have been initiated by way of issue of a notice under this section.

(*5*) Where the issuance of an order under sub-section (*1*) is stayed by the order of a court or Appellate Tribunal, the period of such stay shall be excluded in computing the period of limitation referred to in clause (*b*) of sub-section (*2*).

(*6*) For the purposes of this section, the term,—

(*i*) "record" shall include all records relating to any proceedings under this Act available at the time of examination by the Revisional Authority;

(*ii*) "decision" shall include intimation given by any officer lower in rank than the Revisional Authority.

Constitution of Appellate Tribunal and Benches thereof.

109. (*1*) The Government shall, on the recommendations of the Council, by notification, constitute with effect from such date as may be specified therein, an Appellate Tribunal known as the Goods and Services Tax Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority.

(*2*) The powers of the Appellate Tribunal shall be exercisable by the National Bench and Benches thereof (hereinafter in this Chapter referred to as "Regional Benches"), State Bench and Benches thereof (hereafter in this Chapter referred to as "Area Benches").

(*3*) The National Bench of the Appellate Tribunal shall be situated at New Delhi which shall be presided over by the President and shall consist of one Technical Member (Centre) and one Technical Member (State).

(*4*) The Government shall, on the recommendations of the Council, by notification, constitute such number of Regional Benches as may be required and such Regional Benches shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State).

(*5*) The National Bench or Regional Benches of the Appellate Tribunal shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases where one of the issues involved relates to the place of supply.

(*6*) The Government shall, by notification, specify for each State or Union territory, a Bench of the Appellate Tribunal (hereafter in this Chapter, referred to as "State Bench") for exercising the powers of the Appellate Tribunal within the concerned State or Union territory:

Provided that the Government shall, on receipt of a request from any State Government, constitute such number of Area Benches in that State, as may be recommended by the Council:

Provided further that the Government may, on receipt of a request from any State, or on its own motion for a Union territory, notify the Appellate Tribunal in a State to act as the Appellate Tribunal for any other State or Union territory, as may be recommended by the Council, subject to such terms and conditions as may be prescribed.

(*7*) The State Bench or Area Benches shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases involving matters other than those referred to in sub-section (*5*).

(*8*) The President and the State President shall, by general or special order, distribute the business or transfer cases among Regional Benches or, as the case may be, Area Benches in a State.

(*9*) Each State Bench and Area Benches of the Appellate Tribunal shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State) and the State Government may designate the senior most Judicial Member in a State as the State President.

(*10*) In the absence of a Member in any Bench due to vacancy or otherwise, any appeal may, with the approval of the President or, as the case may be, the State President, be heard by a Bench of two Members:

Provided that any appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in any order appealed against, does not exceed five lakh rupees and which does not involve any question of law may, with the approval of the President and subject to such conditions as may be prescribed on the recommendations of the Council, be heard by a bench consisting of a single member.

(*11*) If the Members of the National Bench, Regional Benches, State Bench or Area Benches differ in opinion on any point or points, it shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President or as the case may be, State President for hearing on such point or points to one or more of the other Members of the National Bench, Regional Benches, State Bench or Area Benches and such point or points shall be decided according to the opinion of the majority of Members who have heard the case, including those who first heard it.

(*12*) The Government, in consultation with the President may, for the administrative convenience, transfer—

(*a*) any Judicial Member or a Member Technical (State) from one Bench to another Bench, whether National or Regional; or

(*b*) any Member Technical (Centre) from one Bench to another Bench, whether National, Regional, State or Area.

(*13*) The State Government, in consultation with the State President may, for the administrative convenience, transfer a Judicial Member or a Member Technical (State) from one Bench to another Bench within the State.

(*14*) No act or proceedings of the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal.

President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc.

110. (*1*) A person shall not be qualified for appointment as—

(*a*) the President, unless he has been a Judge of the Supreme Court or is or has been the Chief Justice of a High Court, or is or has been a Judge of a High Court for a period not less than five years;

(*b*) a Judicial Member, unless he—

(*i*) has been a Judge of the High Court; or

(*ii*) is or has been a District Judge qualified to be appointed as a Judge of a High Court; or

(*iii*) is or has been a Member of Indian Legal Service and has held a post not less than Additional Secretary for three years;

(*c*) a Technical Member (Centre) unless he is or has been a member of Indian Revenue (Customs and Central Excise) Service, Group A, and has completed at least fifteen years of service in Group A;

(*d*) a Technical Member (State) unless he is or has been an officer of the State Government not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such rank as may be notified by the concerned State Government on the recommendations of the Council with at least three years of experience in the administration of an existing law or the State Goods and Services Tax Act or in the field of finance and taxation.

(*2*) The President and the Judicial Members of the National Bench and the Regional Benches shall be appointed by the Government after consultation with the Chief Justice of India or his nominee:

Provided that in the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or otherwise, the senior most Member of the National Bench shall act as the President until the date on which a new President, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office:

Provided further that where the President is unable to discharge his functions owing to absence, illness or any other cause, the senior most Member of the National Bench shall discharge the functions of the President until the date on which the President resumes his duties.

(*3*) The Technical Member (Centre) and Technical Member (State) of the National Bench and Regional Benches shall be appointed by the Government on the recommendations of a Selection Committee consisting of such persons and in such manner as may be prescribed.

(*4*) The Judicial Member of the State Bench or Area Benches shall be appointed by the State Government after consultation with the Chief Justice of the High Court of the State or his nominee.

(*5*) The Technical Member (Centre) of the State Bench or Area Benches shall be appointed by the Central Government and Technical Member (State) of the State Bench or Area Benches shall be appointed by the State Government in such manner as may be prescribed.

(*6*) No appointment of the Members of the Appellate Tribunal shall be invalid merely by the reason of any vacancy or defect in the constitution of the Selection Committee.

(*7*) Before appointing any person as the President or Members of the Appellate Tribunal, the Central Government or, as the case may be, the State Government, shall satisfy itself that such person does not have any financial or other interests which are likely to prejudicially affect his functions as such President or Member.

(*8*) The salary, allowances and other terms and conditions of service of the President, State President and the Members of the Appellate Tribunal shall be such as may be prescribed:

Provided that neither salary and allowances nor other terms and conditions of service of the President, State President or Members of the Appellate Tribunal shall be varied to their disadvantage after their appointment.

(*9*) The President of the Appellate Tribunal shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier and shall be eligible for reappointment.

(*10*) The Judicial Member of the Appellate Tribunal and the State President shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment.

(*11*) The Technical Member (Centre) or Technical Member (State) of the Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment.

(*12*) The President, State President or any Member may, by notice in writing under his hand addressed to the Central Government or, as the case may be, the State Government resign from his office:

Provided that the President, State President or Member shall continue to hold office until the expiry of three months from the date of receipt of such notice by the Central Government, or, as the case may be, the State Government or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(*13*) The Central Government may, after consultation with the Chief Justice of India, in case of the President, Judicial Members and Technical Members of the National Bench, Regional Benches or Technical Members (Centre) of the State Bench or Area Benches, and the State Government may, after consultation with the Chief Justice of High Court, in case of the State President, Judicial Members, Technical Members (State) of the State Bench or Area Benches, may remove from the office such President or Member, who—

(*a*) has been adjudged an insolvent; or

(*b*) has been convicted of an offence which, in the opinion of such Government involves moral turpitude; or

(*c*) has become physically or mentally incapable of acting as such President, State President or Member; or

(*d*) has acquired such financial or other interest as is likely to affect prejudicially his functions as such President, State President or Member; or

(*e*) has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that the President, State President or the Member shall not be removed on any of the grounds specified in clauses (*d*) and (*e*), unless he has been informed of the charges against him and has been given an opportunity of being heard.

(*14*) Without prejudice to the provisions of sub-section (*13*),—

(*a*) the President or a Judicial and Technical Member of the National Bench or Regional Benches, Technical Member (Centre) of the State Bench or Area Benches shall not be removed from their office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court nominated by the Chief Justice of India on a reference made to him by the Central Government and of which the President or the said Member had been given an opportunity of being heard;

(*b*) the Judicial Member or Technical Member (State) of the State Bench or Area Benches shall not be removed from their office except by an order made by the State Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the concerned High Court nominated by the Chief Justice of the concerned High Court on a reference made to him by the State Government and of which the said Member had been given an opportunity of being heard.

(*15*) The Central Government, with the concurrence of the Chief Justice of India, may suspend from office, the President or a Judicial or Technical Members of the National Bench

or the Regional Benches or the Technical Member (Centre) of the State Bench or Area Benches in respect of whom a reference has been made to the Judge of the Supreme Court under sub-section (*14*).

(*16*) The State Government, with the concurrence of the Chief Justice of the High Court, may suspend from office, a Judicial Member or Technical Member (State) of the State Bench or Area Benches in respect of whom a reference has been made to the Judge of the High Court under sub-section (*14*).

(*17*) Subject to the provisions of article 220 of the Constitution, the President, State President or other Members, on ceasing to hold their office, shall not be eligible to appear, act or plead before the National Bench and the Regional Benches or the State Bench and the Area Benches thereof where he was the President or, as the case may be, a Member.

Procedure before Appellate Tribunal.

111. (*1*) The Appellate Tribunal shall not, while disposing of any proceedings before it or an appeal before it, be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and subject to the other provisions of this Act and the rules made thereunder, the Appellate Tribunal shall have power to regulate its own procedure. 5 of 1908.

(*2*) The Appellate Tribunal shall, for the purposes of discharging its functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:— 5 of 1908.

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of documents;

(*c*) receiving evidence on affidavits;

(*d*) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document from any office; 1 of 1872.

(*e*) issuing commissions for the examination of witnesses or documents;

(*f*) dismissing a representation for default or deciding it *ex parte*;

(*g*) setting aside any order of dismissal of any representation for default or any order passed by it *ex parte*; and

(*h*) any other matter which may be prescribed.

(*3*) Any order made by the Appellate Tribunal may be enforced by it in the same manner as if it were a decree made by a court in a suit pending therein, and it shall be lawful for the Appellate Tribunal to send for execution of its orders to the court within the local limits of whose jurisdiction,—

(*a*) in the case of an order against a company, the registered office of the company is situated; or

(*b*) in the case of an order against any other person, the person concerned voluntarily resides or carries on business or personally works for gain.

(*4*) All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, and the Appellate Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 45 of 1860. 2 of 1974.

Appeals to Appellate Tribunal.

112. (*1*) Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory

Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.

(*2*) The Appellate Tribunal may, in its discretion, refuse to admit any such appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order, does not exceed fifty thousand rupees.

(*3*) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or Commissioner of Union territory tax, call for and examine the record of any order passed by the Appellate Authority or the Revisional Authority under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act for the purpose of satisfying himself as to the legality or propriety of the said order and may, by order, direct any officer subordinate to him to apply to the Appellate Tribunal within six months from the date on which the said order has been passed for determination of such points arising out of the said order as may be specified by the Commissioner in his order.

(*4*) Where in pursuance of an order under sub-section (*3*) the authorised officer makes an application to the Appellate Tribunal, such application shall be dealt with by the Appellate Tribunal as if it were an appeal made against the order under sub-section (*11*) of section 107 or under sub-section (*1*) of section 108 and the provisions of this Act shall apply to such application, as they apply in relation to appeals filed under sub-section (*1*).

(*5*) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of notice, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal, as if it were an appeal presented within the time specified in sub-section (*1*).

(*6*) The Appellate Tribunal may admit an appeal within three months after the expiry of the period referred to in sub-section (*1*), or permit the filing of a memorandum of cross-objections within forty-five days after the expiry of the period referred to in sub-section (*5*) if it is satisfied that there was sufficient cause for not presenting it within that period.

(*7*) An appeal to the Appellate Tribunal shall be in such form, verified in such manner and shall be accompanied by such fee, as may be prescribed.

(*8*) No appeal shall be filed under sub-section (*1*), unless the appellant has paid—

(*a*) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and

(*b*) a sum equal to twenty per cent. of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (*6*) of section 107, arising from the said order, in relation to which the appeal has been filed.

(*9*) Where the appellant has paid the amount as per sub-section (*8*), the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.

(*10*) Every application made before the Appellate Tribunal,—

(*a*) in an appeal for rectification of error or for any other purpose; or

(*b*) for restoration of an appeal or an application,

shall be accompanied by such fees as may be prescribed.

Orders of Appellate Tribunal.

113. (*1*) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the Appellate Authority, or the Revisional Authority or to the original adjudicating authority, with such directions as it may think fit, for a fresh adjudication or decision after taking additional evidence, if necessary.

(*2*) The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

(*3*) The Appellate Tribunal may amend any order passed by it under sub-section (*1*) so as to rectify any error apparent on the face of the record, if such error is noticed by it on its own accord, or is brought to its notice by the Commissioner or the Commissioner of State tax or the Commissioner of the Union territory tax or the other party to the appeal within a period of three months from the date of the order:

Provided that no amendment which has the effect of enhancing an assessment or reducing a refund or input tax credit or otherwise increasing the liability of the other party, shall be made under this sub-section, unless the party has been given an opportunity of being heard.

(*4*) The Appellate Tribunal shall, as far as possible, hear and decide every appeal within a period of one year from the date on which it is filed.

(*5*) The Appellate Tribunal shall send a copy of every order passed under this section to the Appellate Authority or the Revisional Authority, or the original adjudicating authority, as the case may be, the appellant and the jurisdictional Commissioner or the Commissioner of State tax or the Union territory tax.

(*6*) Save as provided in section 117 or section 118, orders passed by the Appellate Tribunal on an appeal shall be final and binding on the parties.

Financial and administrative powers of President.

114. The President shall exercise such financial and administrative powers over the National Bench and Regional Benches of the Appellate Tribunal as may be prescribed:

Provided that the President shall have the authority to delegate such of his financial and administrative powers as he may think fit to any other Member or any officer of the National Bench and Regional Benches, subject to the condition that such Member or officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the President.

Interest on refund of amount paid for admission of appeal.

115. Where an amount paid by the appellant under sub-section (*6*) of section 107 or sub-section (*8*) of section 112 is required to be refunded consequent to any order of the Appellate Authority or of the Appellate Tribunal, interest at the rate specified under section 56 shall be payable in respect of such refund from the date of payment of the amount till the date of refund of such amount.

Appearance by authorised representative.

116. (*1*) Any person who is entitled or required to appear before an officer appointed under this Act, or the Appellate Authority or the Appellate Tribunal in connection with any proceedings under this Act, may, otherwise than when required under this Act to appear personally for examination on oath or affirmation, subject to the other provisions of this section, appear by an authorised representative.

(*2*) For the purposes of this Act, the expression "authorised representative" shall mean a person authorised by the person referred to in sub-section (*1*) to appear on his behalf, being—

(*a*) his relative or regular employee; or

(*b*) an advocate who is entitled to practice in any court in India, and who has not been debarred from practicing before any court in India; or

(*c*) any chartered accountant, a cost accountant or a company secretary, who holds a certificate of practice and who has not been debarred from practice; or

(*d*) a retired officer of the Commercial Tax Department of any State Government or Union territory or of the Board who, during his service under the Government, had worked in a post not below the rank than that of a Group-B Gazetted officer for a period of not less than two years:

Provided that such officer shall not be entitled to appear before any proceedings under this Act for a period of one year from the date of his retirement or resignation; or

(*e*) any person who has been authorised to act as a goods and services tax practitioner on behalf of the concerned registered person.

(*3*) No person,—

(*a*) who has been dismissed or removed from Government service; or

(*b*) who is convicted of an offence connected with any proceedings under this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, or under the existing law or under any of the Acts passed by a State Legislature dealing with the imposition of taxes on sale of goods or supply of goods or services or both; or

(*c*) who is found guilty of misconduct by the prescribed authority;

(*d*) who has been adjudged as an insolvent,

shall be qualified to represent any person under sub-section (*1*)—

(*i*) for all times in case of persons referred to in clauses (*a*), (*b*) and (*c*); and

(*ii*) for the period during which the insolvency continues in the case of a person referred to in clause (*d*).

(*4*) Any person who has been disqualified under the provisions of the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be disqualified under this Act.

Appeal to High Court.

117. (*1*) Any person aggrieved by any order passed by the State Bench or Area Benches of the Appellate Tribunal may file an appeal to the High Court and the High Court may admit such appeal, if it is satisfied that the case involves a substantial question of law.

(*2*) An appeal under sub-section (*1*) shall be filed within a period of one hundred and eighty days from the date on which the order appealed against is received by the aggrieved person and it shall be in such form, verified in such manner as may be prescribed:

Provided that the High Court may entertain an appeal after the expiry of the said period if it is satisfied that there was sufficient cause for not filing it within such period.

(*3*) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question and the appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(*4*) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(*5*) The High Court may determine any issue which—

(*a*) has not been determined by the State Bench or Area Benches; or

(*b*) has been wrongly determined by the State Bench or Area Benches, by reason of a decision on such question of law as herein referred to in sub-section (*3*).

(*6*) Where an appeal has been filed before the High Court, it shall be heard by a Bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

(*7*) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only, by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

(*8*) Where the High Court delivers a judgment in an appeal filed before it under this section, effect shall be given to such judgment by either side on the basis of a certified copy of the judgment.

(*9*) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section. 5 of 1908.

Appeal to Supreme Court.

118. (*1*) An appeal shall lie to the Supreme Court—

(*a*) from any order passed by the National Bench or Regional Benches of the Appellate Tribunal; or

(*b*) from any judgment or order passed by the High Court in an appeal made under section 117 in any case which, on its own motion or on an application made by or on behalf of the party aggrieved, immediately after passing of the judgment or order, the High Court certifies to be a fit one for appeal to the Supreme Court.

(*2*) The provisions of the Code of Civil Procedure, 1908, relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under this section as they apply in the case of appeals from decrees of a High Court. 5 of 1908.

(*3*) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 117 in the case of a judgment of the High Court.

Sums due to be paid notwithstanding appeal, etc.

119. Notwithstanding that an appeal has been preferred to the High Court or the Supreme Court, sums due to the Government as a result of an order passed by the National or Regional Benches of the Appellate Tribunal under sub-section (*1*) of section 113 or an order passed by the State Bench or Area Benches of the Appellate Tribunal under sub-section (*1*) of section 113 or an order passed by the High Court under section 117, as the case may be, shall be payable in accordance with the order so passed.

Appeal not to be filed in certain cases.

120. (*1*) The Board may, on the recommendations of the Council, from time to time, issue orders or instructions or directions fixing such monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal or application by the officer of the central tax under the provisions of this Chapter.

(*2*) Where, in pursuance of the orders or instructions or directions issued under sub-section (*1*), the officer of the central tax has not filed an appeal or application against any decision or order passed under the provisions of this Act, it shall not preclude such officer of the central tax from filing appeal or application in any other case involving the same or similar issues or questions of law.

(*3*) Notwithstanding the fact that no appeal or application has been filed by the officer of the central tax pursuant to the orders or instructions or directions issued under sub-section (*1*), no person, being a party in appeal or application shall contend that the

officer of the central tax has acquiesced in the decision on the disputed issue by not filing an appeal or application.

(*4*) The Appellate Tribunal or court hearing such appeal or application shall have regard to the circumstances under which appeal or application was not filed by the officer of the central tax in pursuance of the orders or instructions or directions issued under sub-section (*1*).

Non-appealable decisions and orders.

121. Notwithstanding anything to the contrary in any provisions of this Act, no appeal shall lie against any decision taken or order passed by an officer of central tax if such decision taken or order passed relates to any one or more of the following matters, namely:—

(*a*) an order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer; or

(*b*) an order pertaining to the seizure or retention of books of account, register and other documents; or

(*c*) an order sanctioning prosecution under this Act; or

(*d*) an order passed under section 80.

CHAPTER XIX

OFFENCES AND PENALTIES

Penalty for certain offences.

122. (*1*) Where a taxable person who—

(*i*) supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;

(*ii*) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder;

(*iii*) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

(*iv*) collects any tax in contravention of the provisions of this Act but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

(*v*) fails to deduct the tax in accordance with the provisions of sub-section (*1*) of section 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the Government under sub-section (*2*) thereof, the amount deducted as tax;

(*vi*) fails to collect tax in accordance with the provisions of sub-section (*1*) of section 52, or collects an amount which is less than the amount required to be collected under the said sub-section or where he fails to pay to the Government the amount collected as tax under sub-section (*3*) of section 52;

(*vii*) takes or utilises input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder;

(*viii*) fraudulently obtains refund of tax under this Act;

(*ix*) takes or distributes input tax credit in contravention of section 20, or the rules made thereunder;

(*x*) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act;

(*xi*) is liable to be registered under this Act but fails to obtain registration;

(*xii*) furnishes any false information with regard to registration particulars, either at the time of applying for registration, or subsequently;

(*xiii*) obstructs or prevents any officer in discharge of his duties under this Act;

(*xiv*) transports any taxable goods without the cover of documents as may be specified in this behalf;

(*xv*) suppresses his turnover leading to evasion of tax under this Act;

(*xvi*) fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder;

(*xvii*) fails to furnish information or documents called for by an officer in accordance with the provisions of this Act or the rules made thereunder or furnishes false information or documents during any proceedings under this Act;

(*xviii*) supplies, transports or stores any goods which he has reasons to believe are liable to confiscation under this Act;

(*xix*) issues any invoice or document by using the registration number of another registered person;

(*xx*) tampers with, or destroys any material evidence or document;

(*xxi*) disposes off or tampers with any goods that have been detained, seized, or attached under this Act,

he shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher.

(*2*) Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilised,—

(*a*) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or ten per cent. of the tax due from such person, whichever is higher;

(*b*) for reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty equal to ten thousand rupees or the tax due from such person, whichever is higher.

(*3*) Any person who—

(*a*) aids or abets any of the offences specified in clauses (*i*) to (*xxi*) of sub-section (*1*);

(*b*) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;

(*c*) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;

(*d*) fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry;

(*e*) fails to issue invoice in accordance with the provisions of this Act or the rules made thereunder or fails to account for an invoice in his books of account,

shall be liable to a penalty which may extend to twenty-five thousand rupees.

Penalty for failure to furnish information return.

123. If a person who is required to furnish an information return under section 150 fails to do so within the period specified in the notice issued under sub-section (*3*) thereof, the proper officer may direct that such person shall be liable to pay a penalty of one hundred rupees for each day of the period during which the failure to furnish such return continues:

Provided that the penalty imposed under this section shall not exceed five thousand rupees.

Fine for failure to furnish statistics.

124. If any person required to furnish any information or return under section 151,—

(*a*) without reasonable cause fails to furnish such information or return as may be required under that section, or

(*b*) wilfully furnishes or causes to furnish any information or return which he knows to be false,

he shall be punishable with a fine which may extend to ten thousand rupees and in case of a continuing offence to a further fine which may extend to one hundred rupees for each day after the first day during which the offence continues subject to a maximum limit of twenty-five thousand rupees.

General penalty.

125. Any person, who contravenes any of the provisions of this Act or any rules made thereunder for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to twenty-five thousand rupees.

General disciplines related to penalty.

126. (*1*) No officer under this Act shall impose any penalty for minor breaches of tax regulations or procedural requirements and in particular, any omission or mistake in documentation which is easily rectifiable and made without fraudulent intent or gross negligence.

Explanation.—For the purpose of this sub-section,—

(*a*) a breach shall be considered a 'minor breach' if the amount of tax involved is less than five thousand rupees;

(*b*) an omission or mistake in documentation shall be considered to be easily rectifiable if the same is an error apparent on the face of record.

(*2*) The penalty imposed under this Act shall depend on the facts and circumstances of each case and shall be commensurate with the degree and severity of the breach.

(*3*) No penalty shall be imposed on any person without giving him an opportunity of being heard.

(*4*) The officer under this Act shall while imposing penalty in an order for a breach of any law, regulation or procedural requirement, specify the nature of the breach and the applicable law, regulation or procedure under which the amount of penalty for the breach has been specified.

(*5*) When a person voluntarily discloses to an officer under this Act the circumstances of a breach of the tax law, regulation or procedural requirement prior to the discovery of the breach by the officer under this Act, the proper officer may consider this fact as a mitigating factor when quantifying a penalty for that person.

(*6*) The provisions of this section shall not apply in such cases where the penalty specified under this Act is either a fixed sum or expressed as a fixed percentage.

Power to impose penalty in certain cases.

127. Where the proper officer is of the view that a person is liable to a penalty and the same is not covered under any proceedings under section 62 or section 63 or section 64 or

section 73 or section 74 or section 129 or section 130, he may issue an order levying such penalty after giving a reasonable opportunity of being heard to such person.

Power to waive penalty or fee or both.

128. The Government may, by notification, waive in part or full, any penalty referred to in section 122 or section 123 or section 125 or any late fee referred to in section 47 for such class of taxpayers and under such mitigating circumstances as may be specified therein on the recommendations of the Council.

Detention, seizure and release of goods and conveyances in transit.

129. (*1*) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released,—

(*a*) on payment of the applicable tax and penalty equal to one hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such tax and penalty;

(*b*) on payment of the applicable tax and penalty equal to the fifty per cent. of the value of the goods reduced by the tax amount paid thereon and, in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such tax and penalty;

(*c*) upon furnishing a security equivalent to the amount payable under clause (*a*) or clause (*b*) in such form and manner as may be prescribed:

Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.

(*2*) The provisions of sub-section (*6*) of section 67 shall, *mutatis mutandis*, apply for detention and seizure of goods and conveyances.

(*3*) The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty under clause (*a*) or clause (*b*) or clause (*c*).

(*4*) No tax, interest or penalty shall be determined under sub-section (*3*) without giving the person concerned an opportunity of being heard.

(*5*) On payment of amount referred in sub-section (*1*), all proceedings in respect of the notice specified in sub-section (*3*) shall be deemed to be concluded.

(*6*) Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (*1*) within seven days of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:

Provided that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of seven days may be reduced by the proper officer.

Confiscation of goods or conveyances and levy of penalty.

130. (*1*) Notwithstanding anything contained in this Act, if any person—

(*i*) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or

(*ii*) does not account for any goods on which he is liable to pay tax under this Act; or

(*iii*) supplies any goods liable to tax under this Act without having applied for registration; or

(*iv*) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or

(*v*) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance,

then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.

(*2*) Whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation, such fine as the said officer thinks fit:

Provided that such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon:

Provided further that the aggregate of such fine and penalty leviable shall not be less than the amount of penalty leviable under sub-section (*1*) of section 129:

Provided also that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.

(*3*) Where any fine in lieu of confiscation of goods or conveyance is imposed under sub-section (*2*), the owner of such goods or conveyance or the person referred to in sub-section (*1*), shall, in addition, be liable to any tax, penalty and charges payable in respect of such goods or conveyance.

(*4*) No order for confiscation of goods or conveyance or for imposition of penalty shall be issued without giving the person an opportunity of being heard.

(*5*) Where any goods or conveyance are confiscated under this Act, the title of such goods or conveyance shall thereupon vest in the Government.

(*6*) The proper officer adjudging confiscation shall take and hold possession of the things confiscated and every officer of Police, on the requisition of such proper officer, shall assist him in taking and holding such possession.

(*7*) The proper officer may, after satisfying himself that the confiscated goods or conveyance are not required in any other proceedings under this Act and after giving reasonable time not exceeding three months to pay fine in lieu of confiscation, dispose of such goods or conveyance and deposit the sale proceeds thereof with the Government.

Confiscation or penalty not to interfere with other punishments.

131. Without prejudice to the provisions contained in the Code of Criminal Procedure, 1973, no confiscation made or penalty imposed under the provisions of this Act or the rules made thereunder shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law for the time being in force.

2 of 1974.

Punishment for certain offences.

132. (*1*) Whoever commits any of the following offences, namely:—

(*a*) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;

(*b*) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;

(*c*) avails input tax credit using such invoice or bill referred to in clause (*b*);

(*d*) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

(*e*) evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (*a*) to (*d*);

(*f*) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act;

(*g*) obstructs or prevents any officer in the discharge of his duties under this Act;

(*h*) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;

(*i*) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;

(*j*) tampers with or destroys any material evidence or documents;

(*k*) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or

(*l*) attempts to commit, or abets the commission of any of the offences mentioned in clauses (*a*) to (*k*) of this section,

shall be punishable—

(*i*) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine;

(*ii*) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with imprisonment for a term which may extend to three years and with fine;

(*iii*) in the case of any other offence where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine;

(*iv*) in cases where he commits or abets the commission of an offence specified in clause (*f*) or clause (*g*) or clause (*j*), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(*2*) Where any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine.

(*3*) The imprisonment referred to in clauses (*i*), (*ii*) and (*iii*) of sub-section (*1*) and sub-section (*2*) shall, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, be for a term not less than six months.

2 of 1974.

(*4*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act, except the offences referred to in sub-section (*5*) shall be non-cognizable and bailable.

(*5*) The offences specified in clause (*a*) or clause (*b*) or clause (*c*) or clause (*d*) of sub-section (*1*) and punishable under clause (*i*) of that sub-section shall be cognizable and non-bailable.

(*6*) A person shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.

Explanation.— For the purposes of this section, the term "tax" shall include the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or refund wrongly taken under the provisions of this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act and cess levied under the Goods and Services Tax (Compensation to States) Act.

Liability of officers and certain other persons.

133. (*1*) Where any person engaged in connection with the collection of statistics under section 151 or compilation or computerisation thereof or if any officer of central tax having access to information specified under sub-section (*1*) of section 150, or if any person engaged in connection with the provision of service on the common portal or the agent of common portal, wilfully discloses any information or the contents of any return furnished under this Act or rules made thereunder otherwise than in execution of his duties under the said sections or for the purposes of prosecution for an offence under this Act or under any other Act for the time being in force, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to twenty-five thousand rupees, or with both.

(*2*) Any person—

(*a*) who is a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Government;

(*b*) who is not a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.

Cognizance of offences.

134. No court shall take cognizance of any offence punishable under this Act or the rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Magistrate of the First Class, shall try any such offence.

Presumption of culpable mental state.

135. In any prosecution for an offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation.—For the purposes of this section,—

(*i*) the expression "culpable mental state" includes intention, motive, knowledge of a fact, and belief in, or reason to believe, a fact;

(*ii*) a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

Relevancy of statements under certain circumstances.

136. A statement made and signed by a person on appearance in response to any summons issued under section 70 during the course of any inquiry or proceedings under this Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains,—

(*a*) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable; or

(*b*) when the person who made the statement is examined as a witness in the case before the court and the court is of the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interest of justice.

Offences by companies.

137. (*1*) Where an offence committed by a person under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(*3*) Where an offence under this Act has been committed by a taxable person being a partnership firm or a Limited Liability Partnership or a Hindu Undivided Family or a trust, the partner or *karta* or managing trustee shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly and the provisions of sub-section (*2*) shall, *mutatis mutandis*, apply to such persons.

(*4*) Nothing contained in this section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

Explanation.—For the purposes of this section,—

(*i*) "company" means a body corporate and includes a firm or other association of individuals; and

(*ii*) "director", in relation to a firm, means a partner in the firm.

Compounding of offences.

138. (*1*) Any offence under this Act may, either before or after the institution of prosecution, be compounded by the Commissioner on payment, by the person accused of the offence, to the Central Government or the State Government, as the case be, of such compounding amount in such manner as may be prescribed:

Provided that nothing contained in this section shall apply to—

(*a*) a person who has been allowed to compound once in respect of any of the offences specified in clauses (*a*) to (*f*) of sub-section (*1*) of section 132 and the offences specified in clause (*l*) which are relatable to offences specified in clauses (*a*) to (*f*) of the said sub-section;

(*b*) a person who has been allowed to compound once in respect of any offence, other than those in clause (*a*), under this Act or under the provisions of any State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act or the Integrated Goods and Services Tax Act in respect of supplies of value exceeding one crore rupees;

(*c*) a person who has been accused of committing an offence under this Act which is also an offence under any other law for the time being in force;

(*d*) a person who has been convicted for an offence under this Act by a court;

(*e*) a person who has been accused of committing an offence specified in clause (*g*) or clause (*j*) or clause (*k*) of sub-section (*1*) of section 132; and

(*f*) any other class of persons or offences as may be prescribed:

Provided further that any compounding allowed under the provisions of this section shall not affect the proceedings, if any, instituted under any other law:

Provided also that compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.

(*2*) The amount for compounding of offences under this section shall be such as may be prescribed, subject to the minimum amount not being less than ten thousand rupees or fifty per cent. of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent. of the tax, whichever is higher.

(*3*) On payment of such compounding amount as may be determined by the Commissioner, no further proceedings shall be initiated under this Act against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

CHAPTER XX

TRANSITIONAL PROVISIONS

Migration of existing taxpayers.

139. (*1*) On and from the appointed day, every person registered under any of the existing laws and having a valid Permanent Account Number shall be issued a certificate of registration on provisional basis, subject to such conditions and in such form and manner as may be prescribed, which unless replaced by a final certificate of registration under sub-section (*2*), shall be liable to be cancelled if the conditions so prescribed are not complied with.

(*2*) The final certificate of registration shall be granted in such form and manner and subject to such conditions as may be prescribed.

(*3*) The certificate of registration issued to a person under sub-section (*1*) shall be deemed to have not been issued if the said registration is cancelled in pursuance of an application filed by such person that he was not liable to registration under section 22 or section 24.

Transitional arrangements for input tax credit.

140. (*1*) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed:

Provided that the registered person shall not be allowed to take credit in the following circumstances, namely:—

(*i*) where the said amount of credit is not admissible as input tax credit under this Act; or

(*ii*) where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date; or

(*iii*) where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government.

(*2*) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit in respect of capital goods, not carried forward in a return, furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that the registered person shall not be allowed to take credit unless the said credit was admissible as CENVAT credit under the existing law and is also admissible as input tax credit under this Act.

Explanation.—For the purposes of this sub-section, the expression "unavailed CENVAT credit" means the amount that remains after subtracting the amount of CENVAT credit already availed in respect of capital goods by the taxable person under the existing law from the aggregate amount of CENVAT credit to which the said person was entitled in respect of the said capital goods under the existing law.

(*3*) A registered person, who was not liable to be registered under the existing law, or who was engaged in the manufacture of exempted goods or provision of exempted services, or who was providing works contract service and was availing of the benefit of notification No. 26/2012—Service Tax, dated the 20th June, 2012 or a first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer, shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:—

(*i*) such inputs or goods are used or intended to be used for making taxable supplies under this Act;

(*ii*) the said registered person is eligible for input tax credit on such inputs under this Act;

(*iii*) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs;

(*iv*) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day; and

(*v*) the supplier of services is not eligible for any abatement under this Act:

Provided that where a registered person, other than a manufacturer or a supplier of services, is not in possession of an invoice or any other documents evidencing payment of duty in respect of inputs, then, such registered person shall, subject to such conditions, limitations and safeguards as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient, be allowed to take credit at such rate and in such manner as may be prescribed.

(*4*) A registered person, who was engaged in the manufacture of taxable as well as exempted goods under the Central Excise Act, 1944 or provision of taxable as well as exempted services under Chapter V of the Finance Act, 1994, but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger,— 1 of 1944. 32 of 1994.

(*a*) the amount of CENVAT credit carried forward in a return furnished under the existing law by him in accordance with the provisions of sub-section (*1*); and

(*b*) the amount of CENVAT credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day, relating to such exempted goods or services, in accordance with the provisions of sub-section (*3*).

(*5*) A registered person shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs or input services received on or after the appointed day but the duty or tax in respect of which has been paid by the supplier under the existing law, subject to the condition that the invoice or any other duty or tax paying document of the same was recorded in the books of account of such person within a period of thirty days from the appointed day:

Provided that the period of thirty days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding thirty days:

Provided further that said registered person shall furnish a statement, in such manner as may be prescribed, in respect of credit that has been taken under this sub-section.

(*6*) A registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing law shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:—

(*i*) such inputs or goods are used or intended to be used for making taxable supplies under this Act;

(*ii*) the said registered person is not paying tax under section 10;

(*iii*) the said registered person is eligible for input tax credit on such inputs under this Act;

(*iv*) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of inputs; and

(*v*) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.

(*7*) Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as credit under this Act even if the invoices relating to such services are received on or after the appointed day.

(*8*) Where a registered person having centralised registration under the existing law has obtained a registration under this Act, such person shall be allowed to take, in his electronic credit ledger, credit of the amount of CENVAT credit carried forward in a return, furnished under the existing law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that if the registered person furnishes his return for the period ending with the day immediately preceding the appointed day within three months of the appointed day, such credit shall be allowed subject to the condition that the said return is either an original return or a revised return where the credit has been reduced from that claimed earlier:

Provided further that the registered person shall not be allowed to take credit unless the said amount is admissible as input tax credit under this Act:

Provided also that such credit may be transferred to any of the registered persons having the same Permanent Account Number for which the centralised registration was obtained under the existing law.

(*9*) Where any CENVAT credit availed for the input services provided under the existing law has been reversed due to non-payment of the consideration within a period of three months, such credit can be reclaimed subject to the condition that the registered person has made the payment of the consideration for that supply of services within a period of three months from the appointed day.

(*10*) The amount of credit under sub-sections (*3*), (*4*) and (*6*) shall be calculated in such manner as may be prescribed.

Explanation 1.—For the purposes of sub-sections (*3*), (*4*) and (*6*), the expression "eligible duties" means—

(*i*) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957; 58 of 1957.

(*ii*) the additional duty leviable under sub-section (*1*) of section 3 of the Customs Tariff Act, 1975; 51 of 1975.

(*iii*) the additional duty leviable under sub-section (*5*) of section 3 of the Customs Tariff Act, 1975; 51 of 1975.

(*iv*) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978; 40 of 1978.

(*v*) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985; 5 of 1986.

(*vi*) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985; and 5 of 1986.

(*vii*) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001, 14 of 2001.

in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day.

Explanation 2.—For the purposes of sub-section (*5*), the expression "eligible duties and taxes" means—

(*i*) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957; 58 of 1957.

(*ii*) the additional duty leviable under sub-section (*1*) of section 3 of the Customs Tariff Act, 1975; 51 of 1975.

(*iii*) the additional duty leviable under sub-section (*5*) of section 3 of the Customs Tariff Act, 1975; 51 of 1975.

(*iv*) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978; 40 of 1978.

(*v*) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985; 5 of 1986.

(*vi*) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985; 5 of 1986.

(*vii*) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001; and 14 of 2001.

(*viii*) the service tax leviable under section 66B of the Finance Act, 1994, 32 of 1994.

in respect of inputs and input services received on or after the appointed day.

Transitional provisions relating to job work.

141. (*1*) Where any inputs received at a place of business had been removed as such or removed after being partially processed to a job worker for further processing, testing, repair, reconditioning or any other purpose in accordance with the provisions of existing law prior to the appointed day and such inputs are returned to the said place on or after the appointed day, no tax shall be payable if such inputs, after completion of the job work or otherwise, are returned to the said place within six months from the appointed day:

Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that if such inputs are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause (*a*) of sub-section (*8*) of section 142.

(*2*) Where any semi-finished goods had been removed from the place of business to any other premises for carrying out certain manufacturing processes in accordance with the provisions of existing law prior to the appointed day and such goods (hereafter in this section referred to as "the said goods") are returned to the said place on or after the appointed day, no tax shall be payable, if the said goods, after undergoing manufacturing processes or otherwise, are returned to the said place within six months from the appointed day:

Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that if the said goods are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause (*a*) of sub-section (*8*) of section 142:

Provided also that the manufacturer may, in accordance with the provisions of the existing law, transfer the said goods to the premises of any registered person for the purpose of supplying therefrom on payment of tax in India or without payment of tax for exports within the period specified in this sub-section.

(*3*) Where any excisable goods manufactured at a place of business had been removed without payment of duty for carrying out tests or any other process not amounting to manufacture, to any other premises, whether registered or not, in accordance with the provisions of existing law prior to the appointed day and such goods, are returned to the said place on or after the appointed day, no tax shall be payable if the said goods, after undergoing tests or any other process, are returned to the said place within six months from the appointed day:

Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that if the said goods are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause (*a*) of sub-section (*8*) of section 142:

Provided also that the manufacturer may, in accordance with the provisions of the existing law, transfer the said goods from the said other premises on payment of tax in India or without payment of tax for exports within the period specified in this sub-section.

(*4*) The tax under sub-sections (*1*), (*2*) and (*3*) shall not be payable, only if the manufacturer and the job worker declare the details of the inputs or goods held in stock by the job worker on behalf of the manufacturer on the appointed day in such form and manner and within such time as may be prescribed.

Miscellaneous transitional provisions.

142. (*1*) Where any goods on which duty, if any, had been paid under the existing law at the time of removal thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, the registered person shall be eligible for refund of the duty paid under the existing law where such goods are returned by a person, other than a registered person, to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:

Provided that if the said goods are returned by a registered person, the return of such goods shall be deemed to be a supply.

(*2*) (*a*) where, in pursuance of a contract entered into prior to the appointed day, the price of any goods or services or both is revised upwards on or after the appointed day, the registered person who had removed or provided such goods or services or both shall issue to the recipient a supplementary invoice or debit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or debit note shall be deemed to have been issued in respect of an outward supply made under this Act;

(*b*) where, in pursuance of a contract entered into prior to the appointed day, the price of any goods or services or both is revised downwards on or after the appointed day, the registered person who had removed or provided such goods or services or both may issue to the recipient a credit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such credit note shall be deemed to have been issued in respect of an outward supply made under this Act:

Provided that the registered person shall be allowed to reduce his tax liability on account of issue of the credit note only if the recipient of the credit note has reduced his input tax credit corresponding to such reduction of tax liability.

(*3*) Every claim for refund filed by any person before, on or after the appointed day, for refund of any amount of CENVAT credit, duty, tax, interest or any other amount paid under the existing law, shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (*2*) of section 11B of the Central Excise Act, 1944: 1 of 1944.

Provided that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse:

Provided further that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

(*4*) Every claim for refund filed after the appointed day for refund of any duty or tax paid under existing law in respect of the goods or services exported before or after the appointed day, shall be disposed of in accordance with the provisions of the existing law:

Provided that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse:

Provided further that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

(*5*) Every claim filed by a person after the appointed day for refund of tax paid under the existing law in respect of services not provided shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (*2*) of section 11B of the Central Excise Act, 1944. 1 of 1944.

(*6*) (*a*) every proceeding of appeal, review or reference relating to a claim for CENVAT credit initiated whether before, on or after the appointed day under the existing law shall be disposed of in accordance with the provisions of existing law, and any amount of credit found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (*2*) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act: 1 of 1944.

Provided that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act;

(*b*) every proceeding of appeal, review or reference relating to recovery of CENVAT credit initiated whether before, on or after the appointed day under the existing law shall be disposed of in accordance with the provisions of existing law and if any amount of credit becomes recoverable as a result of such appeal, review or reference, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(*7*) (*a*) every proceeding of appeal, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and if any

amount becomes recoverable as a result of such appeal, review or reference, the same shall, unless recovered under the existing law, be recovered as an arrear of duty or tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(*b*) every proceeding of appeal, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and any amount found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (*2*) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

1 of 1944.

(*8*) (*a*) where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes recoverable from the person, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act;

(*b*) where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes refundable to the taxable person, the same shall be refunded to him in cash under the said law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (*2*) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

1 of 1944.

(*9*) (*a*) where any return, furnished under the existing law, is revised after the appointed day and if, pursuant to such revision, any amount is found to be recoverable or any amount of CENVAT credit is found to be inadmissible, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act;

(*b*) where any return, furnished under the existing law, is revised after the appointed day but within the time limit specified for such revision under the existing law and if, pursuant to such revision, any amount is found to be refundable or CENVAT credit is found to be admissible to any taxable person, the same shall be refunded to him in cash under the existing law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (*2*) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

1 of 1944.

(*10*) Save as otherwise provided in this Chapter, the goods or services or both supplied on or after the appointed day in pursuance of a contract entered into prior to the appointed day shall be liable to tax under the provisions of this Act.

(*11*) (*a*) notwithstanding anything contained in section 12, no tax shall be payable on goods under this Act to the extent the tax was leviable on the said goods under the Value Added Tax Act of the State;

(*b*) notwithstanding anything contained in section 13, no tax shall be payable on services under this Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994;

32 of 1994.

(*c*) where tax was paid on any supply both under the Value Added Tax Act and under Chapter V of the Finance Act, 1994, tax shall be leviable under this Act and the taxable person shall be entitled to take credit of value added tax or service tax paid under the existing law to the extent of supplies made after the appointed day and such credit shall be calculated in such manner as may be prescribed.

32 of 1994.

(*12*) Where any goods sent on approval basis, not earlier than six months before the appointed day, are rejected or not approved by the buyer and returned to the seller on or after the appointed day, no tax shall be payable thereon if such goods are returned within six months from the appointed day:

Provided that the said period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that the tax shall be payable by the person returning the goods if such goods are liable to tax under this Act, and are returned after a period specified in this sub-section:

Provided also that tax shall be payable by the person who has sent the goods on approval basis if such goods are liable to tax under this Act, and are not returned within a period specified in this sub-section.

(*13*) Where a supplier has made any sale of goods in respect of which tax was required to be deducted at source under any law of a State or Union territory relating to Value Added Tax and has also issued an invoice for the same before the appointed day, no deduction of tax at source under section 51 shall be made by the deductor under the said section where payment to the said supplier is made on or after the appointed day.

Explanation.—For the purposes of this Chapter, the expressions "capital goods", "Central Value Added Tax (CENVAT) credit", "first stage dealer", "second stage dealer", or "manufacture" shall have the same meaning as respectively assigned to them in the Central Excise Act, 1944 or the rules made thereunder. 1 of 1944.

CHAPTER XXI

MISCELLANEOUS

Job work procedure.

143. (*1*) A registered person (hereafter in this section referred to as the "principal") may under intimation and subject to such conditions as may be prescribed, send any inputs or capital goods, without payment of tax, to a job worker for job work and from there subsequently send to another job worker and likewise, and shall,—

(*a*) bring back inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out, to any of his place of business, without payment of tax;

(*b*) supply such inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be:

Provided that the principal shall not supply the goods from the place of business of a job worker in accordance with the provisions of this clause unless the said principal declares the place of business of the job worker as his additional place of business except in a case—

(*i*) where the job worker is registered under section 25; or

(*ii*) where the principal is engaged in the supply of such goods as may be notified by the Commissioner.

(*2*) The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal.

(*3*) Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise in accordance with the provisions of clause (*a*) of sub-section (*1*) or are not supplied from the place of business of the job worker in accordance

with the provisions of clause (*b*) of sub-section (*1*) within a period of one year of their being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out.

(*4*) Where the capital goods, other than moulds and dies, jigs and fixtures, or tools, sent for job work are not received back by the principal in accordance with the provisions of clause (*a*) of sub-section (*1*) or are not supplied from the place of business of the job worker in accordance with the provisions of clause (*b*) of sub-section (*1*) within a period of three years of their being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out.

(*5*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), any waste and scrap generated during the job work may be supplied by the job worker directly from his place of business on payment of tax, if such job worker is registered, or by the principal, if the job worker is not registered.

Explanation.—For the purposes of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or the job worker.

Presumption as to documents in certain cases.

144. Where any document—

(*i*) is produced by any person under this Act or any other law for the time being in force; or

(*ii*) has been seized from the custody or control of any person under this Act or any other law for the time being in force; or

(*iii*) has been received from any place outside India in the course of any proceedings under this Act or any other law for the time being in force,

and such document is tendered by the prosecution in evidence against him or any other person who is tried jointly with him, the court shall—

(*a*) unless the contrary is proved by such person, presume—

(*i*) the truth of the contents of such document;

(*ii*) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;

(*b*) admit the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence.

145. (*1*) Notwithstanding anything contained in any other law for the time being in force,—

(*a*) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or

(*b*) a facsimile copy of a document; or

(*c*) a statement contained in a document and included in a printed material produced by a computer, subject to such conditions as may be prescribed; or

(*d*) any information stored electronically in any device or media, including any hard copies made of such information,

shall be deemed to be a document for the purposes of this Act and the rules made thereunder and shall be admissible in any proceedings thereunder, without further

proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(*2*) In any proceedings under this Act or the rules made thereunder, where it is desired to give a statement in evidence by virtue of this section, a certificate,—

(*a*) identifying the document containing the statement and describing the manner in which it was produced;

(*b*) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer,

shall be evidence of any matter stated in the certificate and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

Common Portal.

146. The Government may, on the recommendations of the Council, notify the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions and for such purposes as may be prescribed.

Deemed exports.

147. The Government may, on the recommendations of the Council, notify certain supplies of goods as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.

Special procedure for certain processes.

148. The Government may, on the recommendations of the Council, and subject to such conditions and safeguards as may be prescribed, notify certain classes of registered persons, and the special procedures to be followed by such persons including those with regard to registration, furnishing of return, payment of tax and administration of such persons.

Goods and services tax compliance rating.

149. (*1*) Every registered person may be assigned a goods and services tax compliance rating score by the Government based on his record of compliance with the provisions of this Act.

(*2*) The goods and services tax compliance rating score may be determined on the basis of such parameters as may be prescribed.

(*3*) The goods and services tax compliance rating score may be updated at periodic intervals and intimated to the registered person and also placed in the public domain in such manner as may be prescribed.

Obligation to furnish information return.

150. (*1*) Any person, being—

(*a*) a taxable person; or

(*b*) a local authority or other public body or association; or

(*c*) any authority of the State Government responsible for the collection of value added tax or sales tax or State excise duty or an authority of the Central Government responsible for the collection of excise duty or customs duty; or

(*d*) an income tax authority appointed under the provisions of the Income-tax Act, 1961; or 43 of 1961.

(*e*) a banking company within the meaning of clause (*a*) of section 45A of the Reserve Bank of India Act, 1934; or 2 of 1934.

(*f*) a State Electricity Board or an electricity distribution or transmission licensee under the Electricity Act, 2003, or any other entity entrusted with such functions by the Central Government or the State Government; or 36 of 2003.

(*g*) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908; or

16 of 1908.

(*h*) a Registrar within the meaning of the Companies Act, 2013; or

18 of 2013.

(*i*) the registering authority empowered to register motor vehicles under the Motor Vehicles Act, 1988; or

59 of 1988.

(*j*) the Collector referred to in clause (*c*) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; or

30 of 2013.

(*k*) the recognised stock exchange referred to in clause (*f*) of section 2 of the Securities Contracts (Regulation) Act, 1956; or

42 of 1956.

(*l*) a depository referred to in clause (*e*) of sub-section (*1*) of section 2 of the Depositories Act, 1996; or

22 of 1996.

(*m*) an officer of the Reserve Bank of India as constituted under section 3 of the Reserve Bank of India Act, 1934; or

2 of 1934.

(*n*) the Goods and Services Tax Network, a company registered under the Companies Act, 2013; or

18 of 2013.

(*o*) a person to whom a Unique Identity Number has been granted under sub-section (*9*) of section 25; or

(*p*) any other person as may be specified, on the recommendations of the Council, by the Government,

who is responsible for maintaining record of registration or statement of accounts or any periodic return or document containing details of payment of tax and other details of transaction of goods or services or both or transactions related to a bank account or consumption of electricity or transaction of purchase, sale or exchange of goods or property or right or interest in a property under any law for the time being in force, shall furnish an information return of the same in respect of such periods, within such time, in such form and manner and to such authority or agency as may be prescribed.

(*2*) Where the Commissioner, or an officer authorised by him in this behalf, considers that the information furnished in the information return is defective, he may intimate the defect to the person who has furnished such information return and give him an opportunity of rectifying the defect within a period of thirty days from the date of such intimation or within such further period which, on an application made in this behalf, the said authority may allow and if the defect is not rectified within the said period of thirty days or, the further period so allowed, then, notwithstanding anything contained in any other provisions of this Act, such information return shall be treated as not furnished and the provisions of this Act shall apply.

(*3*) Where a person who is required to furnish information return has not furnished the same within the time specified in sub-section (*1*) or sub-section (*2*), the said authority may serve upon him a notice requiring furnishing of such information return within a period not exceeding ninety days from the date of service of the notice and such person shall furnish the information return.

Power to collect statistics.

151. (*1*) The Commissioner may, if he considers that it is necessary so to do, by notification, direct that statistics may be collected relating to any matter dealt with by or in connection with this Act.

(*2*) Upon such notification being issued, the Commissioner, or any person authorised by him in this behalf, may call upon the concerned persons to furnish such information or returns, in such form and manner as may be prescribed, relating to any matter in respect of which statistics is to be collected .

Bar on disclosure of information.

152. (*1*) No information of any individual return or part thereof with respect to any matter given for the purposes of section 150 or section 151 shall, without the previous consent in writing of the concerned person or his authorised representative, be published in such manner so as to enable such particulars to be identified as referring to a particular person and no such information shall be used for the purpose of any proceedings under this Act.

(*2*) Except for the purposes of prosecution under this Act or any other Act for the time being in force, no person who is not engaged in the collection of statistics under this Act or compilation or computerisation thereof for the purposes of this Act, shall be permitted to see or have access to any information or any individual return referred to in section 151.

(*3*) Nothing in this section shall apply to the publication of any information relating to a class of taxable persons or class of transactions, if in the opinion of the Commissioner, it is desirable in the public interest to publish such information.

Taking assistance from an expert.

153. Any officer not below the rank of Assistant Commissioner may, having regard to the nature and complexity of the case and the interest of revenue, take assistance of any expert at any stage of scrutiny, inquiry, investigation or any other proceedings before him.

Power to take samples.

154. The Commissioner or an officer authorised by him may take samples of goods from the possession of any taxable person, where he considers it necessary, and provide a receipt for any samples so taken.

Burden of proof.

155. Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person.

Persons deemed to be public servants.

156. All persons discharging functions under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Protection of action taken under this Act.

157. (*1*) No suit, prosecution or other legal proceedings shall lie against the President, State President, Members, officers or other employees of the Appellate Tribunal or any other person authorised by the said Appellate Tribunal for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

(*2*) No suit, prosecution or other legal proceedings shall lie against any officer appointed or authorised under this Act for anything which is done or intended to be done in good faith under this Act or the rules made thereunder.

Disclosure of information by a public servant.

158. (*1*) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act (other than proceedings before a criminal court), or in any record of any proceedings under this Act shall, save as provided in sub-section (*3*), not be disclosed.

(*2*) Notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as otherwise provided in sub-section (*3*), require any officer appointed or authorised under this Act to produce before it or to give evidence before it in respect of particulars referred to in sub-section (*1*). 1 of 1872.

(*3*) Nothing contained in this section shall apply to the disclosure of,—

(*a*) any particulars in respect of any statement, return, accounts, documents, evidence, affidavit or deposition, for the purpose of any prosecution under the Indian Penal Code or the Prevention of Corruption Act, 1988, or any other law for the time being in force; or 45 of 1860. 49 of 1988.

(*b*) any particulars to the Central Government or the State Government or to any person acting in the implementation of this Act, for the purposes of carrying out the objects of this Act; or

(*c*) any particulars when such disclosure is occasioned by the lawful exercise under this Act of any process for the service of any notice or recovery of any demand; or

(*d*) any particulars to a civil court in any suit or proceedings, to which the Government or any authority under this Act is a party, which relates to any matter arising out of any proceedings under this Act or under any other law for the time being in force authorising any such authority to exercise any powers thereunder; or

(*e*) any particulars to any officer appointed for the purpose of audit of tax receipts or refunds of the tax imposed by this Act; or

(*f*) any particulars where such particulars are relevant for the purposes of any inquiry into the conduct of any officer appointed or authorised under this Act, to any person or persons appointed as an inquiry officer under any law for the time being in force; or

(*g*) any such particulars to an officer of the Central Government or of any State Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty; or

(*h*) any particulars when such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority, of his or its powers under any law for the time being in force; or

(*i*) any particulars relevant to any inquiry into a charge of misconduct in connection with any proceedings under this Act against a practising advocate, a tax practitioner, a practising cost accountant, a practising chartered accountant, a practising company secretary to the authority empowered to take disciplinary action against the members practising the profession of a legal practitioner, a cost accountant, a chartered accountant or a company secretary, as the case may be; or

(*j*) any particulars to any agency appointed for the purposes of data entry on any automated system or for the purpose of operating, upgrading or maintaining any automated system where such agency is contractually bound not to use or disclose such particulars except for the aforesaid purposes; or

(*k*) any particulars to an officer of the Government as may be necessary for the purposes of any other law for the time being in force; or

(*l*) any information relating to any class of taxable persons or class of transactions for publication, if, in the opinion of the Commissioner, it is desirable in the public interest, to publish such information.

Publication of information in respect of persons in certain cases.

159. (*1*) If the Commissioner, or any other officer authorised by him in this behalf, is of the opinion that it is necessary or expedient in the public interest to publish the name of any person and any other particulars relating to any proceedings or prosecution under this Act in respect of such person, it may cause to be published such name and particulars in such manner as it thinks fit.

(*2*) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Appellate Authority under section 107 has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

Explanation.—In the case of firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Commissioner, or any other officer authorised by him in this behalf, circumstances of the case justify it.

Assessment proceedings, etc., not to be invalid on certain grounds.

160. (*1*) No assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall be invalid or deemed to be invalid merely by reason of any

mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any existing law.

(*2*) The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.

Rectification of errors apparent on the face of record.

161. Without prejudice to the provisions of section 160, and notwithstanding anything contained in any other provisions of this Act, any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any officer appointed under this Act or an officer appointed under the State Goods and Services Tax Act or an officer appointed under the Union Territory Goods and Services Tax Act or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be:

Provided that no such rectification shall be done after a period of six months from the date of issue of such decision or order or notice or certificate or any other document:

Provided further that the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission:

Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification.

Bar on jurisdiction of civil courts.

162. Save as provided in sections 117 and 118, no civil court shall have jurisdiction to deal with or decide any question arising from or relating to anything done or purported to be done under this Act.

Levy of fee.

163. Wherever a copy of any order or document is to be provided to any person on an application made by him for that purpose, there shall be paid such fee as may be prescribed.

Power of Government to make rules.

164. (*1*) The Government may, on the recommendations of the Council, by notification, make rules for carrying out the provisions of this Act.

(*2*) Without prejudice to the generality of the provisions of sub-section (*1*), the Government may make rules for all or any of the matters which by this Act are required to be, or may be, prescribed or in respect of which provisions are to be or may be made by rules.

(*3*) The power to make rules conferred by this section shall include the power to give retrospective effect to the rules or any of them from a date not earlier than the date on which the provisions of this Act come into force.

(*4*) Any rules made under sub-section (*1*) or sub-section (*2*) may provide that a contravention thereof shall be liable to a penalty not exceeding ten thousand rupees.

Power to make regulations.

165. The Board may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

Laying of rules, regulations and notifications.

166. Every rule made by the Government, every regulation made by the Board and every notification issued by the Government under this Act, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the

successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or in the notification, as the case may be, or both Houses agree that the rule or regulation or the notification should not be made, the rule or regulation or notification, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification, as the case may be.

Delegation of powers.

167. The Commissioner may, by notification, direct that subject to such conditions, if any, as may be specified in the notification, any power exercisable by any authority or officer under this Act may be exercisable also by another authority or officer as may be specified in such notification.

Power to issue instructions or directions.

168. (*1*) The Board may, if it considers it necessary or expedient so to do for the purpose of uniformity in the implementation of this Act, issue such orders, instructions or directions to the central tax officers as it may deem fit, and thereupon all such officers and all other persons employed in the implementation of this Act shall observe and follow such orders, instructions or directions.

(*2*) The Commissioner specified in clause (91) of section 2, sub-section (*3*) of section 5, clause (*b*) of sub-section (*9*) of section 25, sub-sections (*3*) and (*4*) of section 35, sub-section (*1*) of section 37, sub-section (*2*) of section 38, sub-section (*6*) of section 39, sub-section (*5*) of section 66, sub-section (*1*) of section 143, sub-section (*1*) of section 151, clause (*l*) of sub-section (*3*) of section 158 and section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.

Service of notice in certain circumstances.

169. (*1*) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely:—

(*a*) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or

(*b*) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or

(*c*) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or

(*d*) by making it available on the common portal; or

(*e*) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or

(*f*) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.

(*2*) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (*1*).

(*3*) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.

Rounding off of tax, etc.

170. The amount of tax, interest, penalty, fine or any other sum payable, and the amount of refund or any other sum due, under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.

Anti-profiteering measure.

171. (*1*) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.

(*2*) The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

(*3*) The Authority referred to in sub-section (*2*) shall exercise such powers and discharge such functions as may be prescribed.

Removal of difficulties.

172. (*1*) If any difficulty arises in giving effect to any provisions of this Act, the Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

Amendment of Act 32 of 1994.

173. Save as otherwise provided in this Act, Chapter V of the Finance Act, 1994 shall be omitted.

Repeal and saving.

174. (*1*) Save as otherwise provided in this Act, on and from the date of commencement of this Act, the Central Excise Act, 1944 (except as respects goods included in entry 84 of the Union List of the Seventh Schedule to the Constitution), the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, and the Central Excise Tariff Act, 1985 (hereafter referred to as the repealed Acts) are hereby repealed. 1 of 1944. 16 of 1955. 58 of 1957. 40 of 1978. 5 of 1986.

(*2*) The repeal of the said Acts and the amendment of the Finance Act, 1994 (hereafter referred to as "such amendment" or "amended Act", as the case may be) to the extent mentioned in the sub-section (*1*) or section 173 shall not— 32 of 1994.

(*a*) revive anything not in force or existing at the time of such amendment or repeal; or

(*b*) affect the previous operation of the amended Act or repealed Acts and orders or anything duly done or suffered thereunder; or

(*c*) affect any right, privilege, obligation, or liability acquired, accrued or incurred under the amended Act or repealed Acts or orders under such repealed or amended Acts:

Provided that any tax exemption granted as an incentive against investment through a notification shall not continue as privilege if the said notification is rescinded on or after the appointed day; or

(*d*) affect any duty, tax, surcharge, fine, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed against the provisions of the amended Act or repealed Acts; or

(*e*) affect any investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and any other legal proceedings or recovery of arrears or remedy in respect of any such duty, tax, surcharge, penalty, fine, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and other legal proceedings or recovery of arrears or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, fine, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been so amended or repealed;

(*f*) affect any proceedings including that relating to an appeal, review or reference, instituted before on, or after the appointed day under the said amended Act or repealed Acts and such proceedings shall be continued under the said amended Act or repealed Acts as if this Act had not come into force and the said Acts had not been amended or repealed.

(*3*) The mention of the particular matters referred to in sub-sections (*1*) and (*2*) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

10 of 1897.

SCHEDULE I

[*See* section 7]

ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.

2. Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business:

Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

3. Supply of goods—

(*a*) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or

(*b*) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

4. Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

SCHEDULE II

[*See* section 7]

ACTIVITIES TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

1. Transfer

(*a*) any transfer of the title in goods is a supply of goods;

(*b*) any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services;

(*c*) any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods.

2. Land and Building

(*a*) any lease, tenancy, easement, licence to occupy land is a supply of services;

(*b*) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.

3. Treatment or process

Any treatment or process which is applied to another person's goods is a supply of services.

4. Transfer of business assets

(*a*) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person;

(*b*) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods is a supply of services;

(*c*) where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—

(*i*) the business is transferred as a going concern to another person; or

(*ii*) the business is carried on by a personal representative who is deemed to be a taxable person.

5. Supply of services

The following shall be treated as supply of services, namely:—

(*a*) renting of immovable property;

(*b*) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.

Explanation.—For the purposes of this clause—

(*1*) the expression "competent authority" means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:—

(*i*) an architect registered with the Council of Architecture constituted under the Architects Act, 1972; or 20 of 1972.

(*ii*) a chartered engineer registered with the Institution of Engineers (India); or

(*iii*) a licensed surveyor of the respective local body of the city or town or village or development or planning authority;

(*2*) the expression "construction" includes additions, alterations, replacements or remodelling of any existing civil structure;

(*c*) temporary transfer or permitting the use or enjoyment of any intellectual property right;

(*d*) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;

(*e*) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and

(*f*) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

6. Composite supply

The following composite supplies shall be treated as a supply of services, namely:—

(*a*) works contract as defined in clause (119) of section 2; and

(*b*) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

7. Supply of Goods

The following shall be treated as supply of goods, namely:—

Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

SCHEDULE III

[*See* section 7]

ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

1. Services by an employee to the employer in the course of or in relation to his employment.

2. Services by any court or Tribunal established under any law for the time being in force.

3. (*a*) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;

(*b*) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or

(*c*) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.

4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.

5. Sale of land and, subject to clause (*b*) of paragraph 5 of Schedule II, sale of building.

6. Actionable claims, other than lottery, betting and gambling.

Explanation.—For the purposes of paragraph 2, the term "court" includes District Court, High Court and Supreme Court.

———

DR. G. NARAYANA RAJU
Secretary to the Govt. of India.

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 12*th April,* 2017/*Chaitra* 22, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 12th April, 2017, and is hereby published for general information:—

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017

No. 13 of 2017

[12*th April,* 2017.]

An Act to make a provision for levy and collection of tax on inter-State supply of goods or services or both by the Central Government and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I
Preliminary

1. (*1*) This Act may be called the Integrated Goods and Services Tax Act, 2017. Short title, extent and commencement.

(*2*) It shall extend to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*1*) "Central Goods and Services Tax Act" means the Central Goods and Services Tax Act, 2017;

(*2*) ''central tax" means the tax levied and collected under the Central Goods and Services Tax Act;

(*3*) "continuous journey" means a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued.

Explanation.—For the purposes of this clause, the term "stopover" means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time;

(*4*) "customs frontiers of India" means the limits of a customs area as defined in section 2 of the Customs Act, 1962; 52 of 1962.

(*5*) "export of goods" with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India;

(*6*) "export of services" means the supply of any service when,—

(*i*) the supplier of service is located in India;

(*ii*) the recipient of service is located outside India;

(*iii*) the place of supply of service is outside India;

(*iv*) the payment for such service has been received by the supplier of service in convertible foreign exchange; and

(*v*) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with *Explanation* 1 in section 8;

(*7*) "fixed establishment" means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services or to receive and use services for its own needs;

(*8*) "Goods and Services Tax (Compensation to States) Act" means the Goods and Services Tax (Compensation to States) Act, 2017;

(*9*) "Government" means the Central Government;

(*10*) ''import of goods" with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India;

(*11*) ''import of services" means the supply of any service, where—

(*i*) the supplier of service is located outside India;

(*ii*) the recipient of service is located in India; and

(*iii*) the place of supply of service is in India;

(*12*) "integrated tax" means the integrated goods and services tax levied under this Act;

(*13*) "intermediary" means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account;

(*14*) "location of the recipient of services" means,—

(*a*) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;

(*b*) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(*c*) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and

(*d*) in absence of such places, the location of the usual place of residence of the recipient;

(*15*) "location of the supplier of services" means,—

(*a*) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;

(*b*) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(*c*) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and

(*d*) in absence of such places, the location of the usual place of residence of the supplier;

(*16*) "non-taxable online recipient" means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.

Explanation.—For the purposes of this clause, the expression "governmental authority" means an authority or a board or any other body,—

(*i*) set up by an Act of Parliament or a State Legislature; or

(*ii*) established by any Government,

with ninety per cent. or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution;

(*17*) "online information and database access or retrieval services" means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic services such as,—

(*i*) advertising on the internet;

(*ii*) providing cloud services;

(*iii*) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;

(*iv*) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;

(*v*) online supplies of digital content (movies, television shows, music and the like);

(*vi*) digital data storage; and

(*vii*) online gaming;

(*18*) "output tax", in relation to a taxable person, means the integrated tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis;

(*19*) "Special Economic Zone" shall have the same meaning as assigned to it in clause (*za*) of section 2 of the Special Economic Zones Act, 2005; 28 of 2005.

(*20*) "Special Economic Zone developer" shall have the same meaning as assigned to it in clause (*g*) of section 2 of the Special Economic Zones Act, 2005 and includes an Authority as defined in clause (*d*) and a Co-Developer as defined in clause (*f*) of section 2 of the said Act; 28 of 2005.

(*21*) "supply" shall have the same meaning as assigned to it in section 7 of the Central Goods and Services Tax Act;

(*22*) "taxable territory" means the territory to which the provisions of this Act apply;

(*23*) "zero-rated supply" shall have the meaning assigned to it in section 16;

(*24*) words and expressions used and not defined in this Act but defined in the Central Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act shall have the same meaning as assigned to them in those Acts;

(*25*) any reference in this Act to a law which is not in force in the State of Jammu and Kashmir, shall, in relation to that State be construed as a reference to the corresponding law, if any, in force in that State.

CHAPTER II

ADMINISTRATION

Appointment of officers.

3. The Board may appoint such central tax officers as it thinks fit for exercising the powers under this Act.

Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances.

4. Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such exceptions and conditions as the Government shall, on the recommendations of the Council, by notification, specify.

CHAPTER III

LEVY AND COLLECTION OF TAX

Levy and collection.

5. (*1*) Subject to the provisions of sub-section (*2*), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person:

Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962. 51 of 1975. 52 of 1962.

(*2*) The integrated tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

(*3*) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

(*4*) The integrated tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

(*5*) The Government may, on the recommendations of the Council, by notification, specify categories of services, the tax on inter-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

Power to grant exemption from tax.

6. (*1*) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.

(*2*) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.

(*3*) The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (*1*) or order issued under sub-section (*2*), insert an *Explanation* in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (*1*) or order under sub-section (*2*), and every such *Explanation* shall have effect as if it had always been the part of the first such notification or order, as the case may be.

Explanation.—For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.

CHAPTER IV

DETERMINATION OF NATURE OF SUPPLY

Inter-State supply.

7. (*1*) Subject to the provisions of section 10, supply of goods, where the location of the supplier and the place of supply are in—

(*a*) two different States;

(*b*) two different Union territories; or

(*c*) a State and a Union territory,

shall be treated as a supply of goods in the course of inter-State trade or commerce.

(*2*) Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade or commerce.

(*3*) Subject to the provisions of section 12, supply of services, where the location of the supplier and the place of supply are in—

(*a*) two different States;

(*b*) two different Union territories; or

(*c*) a State and a Union territory,

shall be treated as a supply of services in the course of inter-State trade or commerce.

(*4*) Supply of services imported into the territory of India shall be treated to be a supply of services in the course of inter-State trade or commerce.

(*5*) Supply of goods or services or both,—

(*a*) when the supplier is located in India and the place of supply is outside India;

(*b*) to or by a Special Economic Zone developer or a Special Economic Zone unit; or

(*c*) in the taxable territory, not being an intra-State supply and not covered elsewhere in this section,

shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.

Intra-State supply.

8. (*1*) Subject to the provisions of section 10, supply of goods where the location of the supplier and the place of supply of goods are in the same State or same Union territory shall be treated as intra-State supply:

Provided that the following supply of goods shall not be treated as intra-State supply, namely:—

(*i*) supply of goods to or by a Special Economic Zone developer or a Special Economic Zone unit;

(*ii*) goods imported into the territory of India till they cross the customs frontiers of India; or

(*iii*) supplies made to a tourist referred to in section 15.

(*2*) Subject to the provisions of section 12, supply of services where the location of the supplier and the place of supply of services are in the same State or same Union territory shall be treated as intra-State supply:

Provided that the intra-State supply of services shall not include supply of services to or by a Special Economic Zone developer or a Special Economic Zone unit.

Explanation 1.—For the purposes of this Act, where a person has,—

(*i*) an establishment in India and any other establishment outside India;

(*ii*) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or

(*iii*) an establishment in a State or Union territory and any other establishment being a business vertical registered within that State or Union territory,

then such establishments shall be treated as establishments of distinct persons.

Explanation 2.—A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.

Supplies in territorial waters.

9. Notwithstanding anything contained in this Act,—

(*a*) where the location of the supplier is in the territorial waters, the location of such supplier; or

(*b*) where the place of supply is in the territorial waters, the place of supply,

shall, for the purposes of this Act, be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

CHAPTER V

PLACE OF SUPPLY OF GOODS OR SERVICES OR BOTH

Place of supply of goods other than supply of goods imported into, or exported from India.

10. (*1*) The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,—

(*a*) where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient;

(*b*) where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person;

(*c*) where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient;

(*d*) where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly;

(*e*) where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board.

(*2*) Where the place of supply of goods cannot be determined, the place of supply shall be determined in such manner as may be prescribed.

Place of supply of goods imported into, or exported from India.

11. The place of supply of goods,—

(*a*) imported into India shall be the location of the importer;

(*b*) exported from India shall be the location outside India.

Place of supply of services where location of supplier and recipient is in India.

12. (*1*) The provisions of this section shall apply to determine the place of supply of services where the location of supplier of services and the location of the recipient of services is in India.

(*2*) The place of supply of services, except the services specified in sub-sections (*3*) to (*14*),—

(*a*) made to a registered person shall be the location of such person;

(*b*) made to any person other than a registered person shall be,—

(*i*) the location of the recipient where the address on record exists; and

(*ii*) the location of the supplier of services in other cases.

(*3*) The place of supply of services,—

(*a*) directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or

estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work; or

(*b*) by way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel; or

(*c*) by way of accommodation in any immovable property for organising any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property; or

(*d*) any services ancillary to the services referred to in clauses (*a*), (*b*) and (*c*),

shall be the location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located:

Provided that if the location of the immovable property or boat or vessel is located or intended to be located outside India, the place of supply shall be the location of the recipient.

Explanation.—Where the immovable property or boat or vessel is located in more than one State or Union territory, the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

(*4*) The place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery shall be the location where the services are actually performed.

(*5*) The place of supply of services in relation to training and performance appraisal to,—

(*a*) a registered person, shall be the location of such person;

(*b*) a person other than a registered person, shall be the location where the services are actually performed.

(*6*) The place of supply of services provided by way of admission to a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place and services ancillary thereto, shall be the place where the event is actually held or where the park or such other place is located.

(*7*) The place of supply of services provided by way of,—

(*a*) organisation of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events; or

(*b*) services ancillary to organisation of any of the events or services referred to in clause (*a*), or assigning of sponsorship to such events,—

(*i*) to a registered person, shall be the location of such person;

(*ii*) to a person other than a registered person, shall be the place where the event is actually held and if the event is held outside India, the place of supply shall be the location of the recipient.

Explanation.—Where the event is held in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such event, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

(*8*) The place of supply of services by way of transportation of goods, including by mail or courier to,—

(*a*) a registered person, shall be the location of such person;

(*b*) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.

(*9*) The place of supply of passenger transportation service to,—

(*a*) a registered person, shall be the location of such person;

(*b*) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey:

Provided that where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in accordance with the provisions of sub-section (*2*).

Explanation.—For the purposes of this sub-section, the return journey shall be treated as a separate journey, even if the right to passage for onward and return journey is issued at the same time.

(*10*) The place of supply of services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, shall be the location of the first scheduled point of departure of that conveyance for the journey.

(*11*) The place of supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall,—

(*a*) in case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna, be the location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;

(*b*) in case of mobile connection for telecommunication and internet services provided on post-paid basis, be the location of billing address of the recipient of services on the record of the supplier of services;

(*c*) in cases where mobile connection for telecommunication, internet service and direct to home television services are provided on pre-payment basis through a voucher or any other means,—

(*i*) through a selling agent or a re-seller or a distributor of subscriber identity module card or re-charge voucher, be the address of the selling agent or re-seller or distributor as per the record of the supplier at the time of supply; or

(*ii*) by any person to the final subscriber, be the location where such pre-payment is received or such vouchers are sold;

(*d*) in other cases, be the address of the recipient as per the records of the supplier of services and where such address is not available, the place of supply shall be location of the supplier of services:

Provided that where the address of the recipient as per the records of the supplier of services is not available, the place of supply shall be location of the supplier of services:

Provided further that if such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment, the location of the recipient of services on the record of the supplier of services shall be the place of supply of such services.

Explanation.—Where the leased circuit is installed in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such circuit, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

(*12*) The place of supply of banking and other financial services, including stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services:

Provided that if the location of recipient of services is not on the records of the supplier, the place of supply shall be the location of the supplier of services.

(*13*) The place of supply of insurance services shall,—

(*a*) to a registered person, be the location of such person;

(*b*) to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services.

(*14*) The place of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement shall be taken as being in each of such States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the amount attributable to services provided by way of dissemination in the respective States or Union territories as may be determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

Place of supply of services where location of supplier or location of recipient is outside India.

13. (*1*) The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India.

(*2*) The place of supply of services except the services specified in sub-sections (*3*) to (*13*) shall be the location of the recipient of services:

Provided that where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.

(*3*) The place of supply of the following services shall be the location where the services are actually performed, namely:—

(*a*) services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services:

Provided that when such services are provided from a remote location by way of electronic means, the place of supply shall be the location where goods are situated at the time of supply of services:

Provided further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs and are exported after repairs without being put to any other use in India, than that which is required for such repairs;

(*b*) services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which require the physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services.

(*4*) The place of supply of services supplied directly in relation to an immovable property, including services supplied in this regard by experts and estate agents, supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including that of architects or interior decorators, shall be the place where the immovable property is located or intended to be located.

(*5*) The place of supply of services supplied by way of admission to, or organisation of a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events, and of services ancillary to such admission or organisation, shall be the place where the event is actually held.

(*6*) Where any services referred to in sub-section (*3*) or sub-section (*4*) or sub-section (*5*) is supplied at more than one location, including a location in the taxable territory, its place of supply shall be the location in the taxable territory.

(*7*) Where the services referred to in sub-section (*3*) or sub-section (*4*) or sub-section (*5*) are supplied in more than one State or Union territory, the place of supply of such services shall be taken as being in each of the respective States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

(*8*) The place of supply of the following services shall be the location of the supplier of services, namely:—

(*a*) services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders;

(*b*) intermediary services;

(*c*) services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month.

Explanation.—For the purposes of this sub-section, the expression,—

(*a*) "account" means an account bearing interest to the depositor, and includes a non-resident external account and a non-resident ordinary account;

(*b*) "banking company" shall have the same meaning as assigned to it under clause (*a*) of section 45A of the Reserve Bank of India Act, 1934;

2 of 1934.

(*c*) "financial institution" shall have the same meaning as assigned to it in clause (*c*) of section 45-I of the Reserve Bank of India Act, 1934;

2 of 1934.

(*d*) "non-banking financial company" means,—

(*i*) a financial institution which is a company;

(*ii*) a non-banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner; or

(*iii*) such other non-banking institution or class of such institutions, as the Reserve Bank of India may, with the previous approval of the Central Government and by notification in the Official Gazette, specify.

(*9*) The place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods.

(*10*) The place of supply in respect of passenger transportation services shall be the place where the passenger embarks on the conveyance for a continuous journey.

(*11*) The place of supply of services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board, shall be the first scheduled point of departure of that conveyance for the journey.

(*12*) The place of supply of online information and database access or retrieval services shall be the location of the recipient of services.

Explanation.—For the purposes of this sub-section, person receiving such services shall be deemed to be located in the taxable territory, if any two of the following non-contradictory conditions are satisfied, namely:—

(*a*) the location of address presented by the recipient of services through internet is in the taxable territory;

(*b*) the credit card or debit card or store value card or charge card or smart card or any other card by which the recipient of services settles payment has been issued in the taxable territory;

(*c*) the billing address of the recipient of services is in the taxable territory;

(*d*) the internet protocol address of the device used by the recipient of services is in the taxable territory;

(*e*) the bank of the recipient of services in which the account used for payment is maintained is in the taxable territory;

(*f*) the country code of the subscriber identity module card used by the recipient of services is of taxable territory;

(*g*) the location of the fixed land line through which the service is received by the recipient is in the taxable territory.

(*13*) In order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, the Government shall have the power to notify any description of services or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service.

Special provision for payment of tax by a supplier of online information and database access or retrieval services.

14. (*1*) On supply of online information and database access or retrieval services by any person located in a non-taxable territory and received by a non-taxable online recipient, the supplier of services located in a non-taxable territory shall be the person liable for paying integrated tax on such supply of services:

Provided that in the case of supply of online information and database access or retrieval services by any person located in a non-taxable territory and received by a non-taxable online recipient, an intermediary located in the non-taxable territory, who arranges or facilitates the supply of such services, shall be deemed to be the recipient of such services from the supplier of services in non-taxable territory and supplying such services to the non-taxable online recipient except when such intermediary satisfies the following conditions, namely:—

(*a*) the invoice or customer's bill or receipt issued or made available by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory;

(*b*) the intermediary involved in the supply does not authorise the charge to the customer or take part in its charge which is that the intermediary neither collects or processes payment in any manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services;

(*c*) the intermediary involved in the supply does not authorise delivery; and

(*d*) the general terms and conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.

(*2*) The supplier of online information and database access or retrieval services referred to in sub-section (*1*) shall, for payment of integrated tax, take a single registration under the Simplified Registration Scheme to be notified by the Government:

Provided that any person located in the taxable territory representing such supplier for any purpose in the taxable territory shall get registered and pay integrated tax on behalf of the supplier:

Provided further that if such supplier does not have a physical presence or does not have a representative for any purpose in the taxable territory, he may appoint a person in the taxable territory for the purpose of paying integrated tax and such person shall be liable for payment of such tax.

CHAPTER VI

REFUND OF INTEGRATED TAX TO INTERNATIONAL TOURIST

Refund of integrated tax paid on supply of goods to tourist leaving India.

15. The integrated tax paid by tourist leaving India on any supply of goods taken out of India by him shall be refunded in such manner and subject to such conditions and safeguards as may be prescribed.

Explanation.—For the purposes of this section, the term "tourist" means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

CHAPTER VII

ZERO RATED SUPPLY

Zero rated supply.

16. (*1*) "zero rated supply" means any of the following supplies of goods or services or both, namely:—

(*a*) export of goods or services or both; or

(*b*) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

(*2*) Subject to the provisions of sub-section (*5*) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.

(*3*) A registered person making zero rated supply shall be eligible to claim refund under either of the following options, namely:—

(*a*) he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or

(*b*) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied,

in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder.

CHAPTER VIII

APPORTIONMENT OF TAX AND SETTLEMENT OF FUNDS

Apportionment of tax and settlement of funds.

17. (*1*) Out of the integrated tax paid to the Central Government,—

(*a*) in respect of inter-State supply of goods or services or both to an unregistered person or to a registered person paying tax under section 10 of the Central Goods and Services Tax Act;

(*b*) in respect of inter-State supply of goods or services or both where the registered person is not eligible for input tax credit;

(*c*) in respect of inter-State supply of goods or services or both made in a financial year to a registered person, where he does not avail of the input tax credit within the specified period and thus remains in the integrated tax account after expiry of the due date for furnishing of annual return for such year in which the supply was made;

(*d*) in respect of import of goods or services or both by an unregistered person or by a registered person paying tax under section 10 of the Central Goods and Services Tax Act;

(*e*) in respect of import of goods or services or both where the registered person is not eligible for input tax credit;

(*f*) in respect of import of goods or services or both made in a financial year by a registered person, where he does not avail of the said credit within the specified period and thus remains in the integrated tax account after expiry of the due date for furnishing of annual return for such year in which the supply was received,

the amount of tax calculated at the rate equivalent to the central tax on similar intra-State supply shall be apportioned to the Central Government.

(*2*) The balance amount of integrated tax remaining in the integrated tax account in respect of the supply for which an apportionment to the Central Government has been done under sub-section (*1*) shall be apportioned to the,—

(*a*) State where such supply takes place; and

(*b*) Central Government where such supply takes place in a Union territory:

Provided that where the place of such supply made by any taxable person cannot be determined separately, the said balance amount shall be apportioned to,—

(*a*) each of the States; and

(*b*) Central Government in relation to Union territories,

in proportion to the total supplies made by such taxable person to each of such States or Union territories, as the case may be, in a financial year:

Provided further that where the taxable person making such supplies is not identifiable, the said balance amount shall be apportioned to all States and the Central Government in proportion to the amount collected as State tax or, as the case may be, Union territory tax, by the respective State or, as the case may be, by the Central Government during the immediately preceding financial year.

(*3*) The provisions of sub-sections (*1*) and (*2*) relating to apportionment of integrated tax shall, *mutatis mutandis,* apply to the apportionment of interest, penalty and compounding amount realised in connection with the tax so apportioned.

(*4*) Where an amount has been apportioned to the Central Government or a State Government under sub-section (*1*) or sub-section (*2*) or sub-section (*3*), the amount collected as integrated tax shall stand reduced by an amount equal to the amount so apportioned and the Central Government shall transfer to the central tax account or Union territory tax account, an amount equal to the respective amounts apportioned to the Central Government and shall transfer to the State tax account of the respective States an amount equal to the amount apportioned to that State, in such manner and within such time as may be prescribed.

(*5*) Any integrated tax apportioned to a State or, as the case may be, to the Central Government on account of a Union territory, if subsequently found to be refundable to any person and refunded to such person, shall be reduced from the amount to be apportioned under this section, to such State, or Central Government on account of such Union territory, in such manner and within such time as may be prescribed.

Transfer of input tax credit.

18. On utilisation of credit of integrated tax availed under this Act for payment of,—

(*a*) central tax in accordance with the provisions of sub-section (*5*) of section 49 of the Central Goods and Services Tax Act, the amount collected as integrated tax shall stand reduced by an amount equal to the credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the integrated tax account to the central tax account in such manner and within such time as may be prescribed;

(*b*) Union territory tax in accordance with the provisions of section 9 of the Union Territory Goods and Services Tax Act, the amount collected as integrated tax shall stand reduced by an amount equal to the credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the integrated tax account to the Union territory tax account in such manner and within such time as may be prescribed;

(*c*) State tax in accordance with the provisions of the respective State Goods and Services Tax Act, the amount collected as integrated tax shall stand reduced by an amount equal to the credit so utilised and shall be apportioned to the appropriate State Government and the Central Government shall transfer the amount so apportioned to the account of the appropriate State Government in such manner and within such time as may be prescribed.

Explanation.—For the purposes of this Chapter, "appropriate State" in relation to a taxable person, means the State or Union territory where he is registered or is liable to be registered under the provisions of the Central Goods and Services Tax Act.

Tax wrongfully collected and paid to Central Government or State Government.

19. (*1*) A registered person who has paid integrated tax on a supply considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall be granted refund of the amount of integrated tax so paid in such manner and subject to such conditions as may be prescribed.

(*2*) A registered person who has paid central tax and State tax or Union territory tax, as the case may be, on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall not be required to pay any interest on the amount of integrated tax payable.

CHAPTER IX

MISCELLANEOUS

Application of provisions of Central Goods and Services Tax Act.

20. Subject to the provisions of this Act and the rules made thereunder, the provisions of Central Goods and Services Tax Act relating to,—

(*i*) scope of supply;

(*ii*) composite supply and mixed supply;

(*iii*) time and value of supply;

(*iv*) input tax credit;

(*v*) registration;

(*vi*) tax invoice, credit and debit notes;

(*vii*) accounts and records;

(*viii*) returns, other than late fee;

(*ix*) payment of tax;

(*x*) tax deduction at source;

(*xi*) collection of tax at source;

(*xii*) assessment;

(*xiii*) refunds;

(*xiv*) audit;

(*xv*) inspection, search, seizure and arrest;

(*xvi*) demands and recovery;

(*xvii*) liability to pay in certain cases;

(*xviii*) advance ruling;

(*xix*) appeals and revision;

(*xx*) presumption as to documents;

(*xxi*) offences and penalties;

(*xxii*) job work;

(*xxiii*) electronic commerce;

(*xxiv*) transitional provisions; and

(*xxv*) miscellaneous provisions including the provisions relating to the imposition of interest and penalty,

shall, *mutatis mutandis,* apply, so far as may be, in relation to integrated tax as they apply in relation to central tax as if they are enacted under this Act:

Provided that in the case of tax deducted at source, the deductor shall deduct tax at the rate of two per cent. from the payment made or credited to the supplier:

Provided further that in the case of tax collected at source, the operator shall collect tax at such rate not exceeding two per cent, as may be notified on the recommendations of the Council, of the net value of taxable supplies:

Provided also that for the purposes of this Act, the value of a supply shall include any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier:

Provided also that in cases where the penalty is leviable under the Central Goods and Services Tax Act and the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, the penalty leviable under this Act shall be the sum total of the said penalties.

Import of services made on or after the appointed day.

21. Import of services made on or after the appointed day shall be liable to tax under the provisions of this Act regardless of whether the transactions for such import of services had been initiated before the appointed day:

Provided that if the tax on such import of services had been paid in full under the existing law, no tax shall be payable on such import under this Act:

Provided further that if the tax on such import of services had been paid in part under the existing law, the balance amount of tax shall be payable on such import under this Act.

Explanation.—For the purposes of this section, a transaction shall be deemed to have been initiated before the appointed day if either the invoice relating to such supply or payment, either in full or in part, has been received or made before the appointed day.

Power to make rules.

22. (*1*) The Government may, on the recommendations of the Council, by notification, make rules for carrying out the provisions of this Act.

(*2*) Without prejudice to the generality of the provisions of sub-section (*1*), the Government may make rules for all or any of the matters which by this Act are required to be, or may be, prescribed or in respect of which provisions are to be or may be made by rules.

(*3*) The power to make rules conferred by this section shall include the power to give retrospective effect to the rules or any of them from a date not earlier than the date on which the provisions of this Act come into force.

(*4*) Any rules made under sub-section (*1*) may provide that a contravention thereof shall be liable to a penalty not exceeding ten thousand rupees.

Power to make regulations.

23. The Board may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

Laying of rules, regulations and notifications.

24. Every rule made by the Government, every regulation made by the Board and every notification issued by the Government under this Act, shall be laid, as soon as may be, after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or in the notification, as the case may be, or both Houses agree that the rule or regulation or the notification should not be made, the rule or regulation or notification, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification, as the case may be.

Removal of difficulties.

25. (*1*) If any difficulty arises in giving effect to any provision of this Act, the Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

———

DR. G. NARAYANA RAJU
Secretary to the Govt. of India.

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 12*th April,* 2017/*Chaitra* 22, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 12th April, 2017, and is hereby published for general information:—

THE UNION TERRITORY GOODS AND SERVICES TAX ACT, 2017

No. 14 of 2017

[12*th April,* 2017.]

An Act to make a provision for levy and collection of tax on intra-State supply of goods or services or both by the Union territories and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I
Preliminary

1. (*1*) This Act may be called the Union Territory Goods and Services Tax Act, 2017. Short title, extent and commencement.

(*2*) It extends to the Union territories of the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu, Chandigarh and other territory.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*1*) ''appointed day'' means the date on which the provisions of this Act shall come into force;

(*2*) ''Commissioner'' means the Commissioner of Union territory tax appointed under section 3;

(*3*) ''designated authority'' means such authority as may be notified by the Commissioner;

(*4*) ''exempt supply'' means supply of any goods or services or both which attracts *nil* rate of tax or which may be exempt from tax under section 8, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;

(*5*) ''existing law'' means any law, notification, order, rule or regulation relating to levy and collection of duty or tax on goods or services or both passed or made before the commencement of this Act by Parliament or any Authority or person having the power to make such law, notification, order, rule or regulation;

(*6*) ''Government'' means the Administrator or any Authority or officer authorised to act as Administrator by the Central Government;

(*7*) ''output tax'' in relation to a taxable person, means the Union territory tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis;

(*8*) ''Union territory'' means the territory of,—

(*i*) the Andaman and Nicobar Islands;

(*ii*) Lakshadweep;

(*iii*) Dadra and Nagar Haveli;

(*iv*) Daman and Diu;

(*v*) Chandigarh; or

(*vi*) other territory.

Explanation.—For the purposes of this Act, each of the territories specified in sub-clauses (*i*) to (*vi*) shall be considered to be a separate Union territory;

(*9*) ''Union territory tax'' means the tax levied under this Act;

(*10*) words and expressions used and not defined in this Act but defined in the Central Goods and Services Tax Act, the Integrated Goods and Services Tax Act, the State Goods and Services Tax Act, and the Goods and Services Tax (Compensation to States) Act, shall have the same meaning as assigned to them in those Acts.

CHAPTER II

ADMINISTRATION

Officers under this Act.

3. The Administrator may, by notification, appoint Commissioners and such other class of officers as may be required for carrying out the purposes of this Act and such officers shall be deemed to be proper officers for such purposes as may be specified therein:

Provided that the officers appointed under the existing law shall be deemed to be the officers appointed under the provisions of this Act.

Authorisation of officers.

4. The Administrator may, by order, authorise any officer to appoint officers of Union territory tax below the rank of Assistant Commissioner of Union territory tax for the administration of this Act.

Powers of officers.

5. (*1*) Subject to such conditions and limitations as the Commissioner may impose, an officer of the Union territory tax may exercise the powers and discharge the duties conferred or imposed on him under this Act.

(*2*) An officer of a Union territory tax may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of a Union territory tax who is subordinate to him.

(*3*) The Commissioner may, subject to such conditions and limitations as may be specified in this behalf by him, delegate his powers to any other officer subordinate to him.

(*4*) Notwithstanding anything contained in this section, an Appellate Authority shall not exercise the powers and discharge the duties conferred or imposed on any other officer of Union territory tax.

Authorisation of officers of central tax as proper officer in certain circumstances.

6. (*1*) Without prejudice to the provisions of this Act, the officers appointed under the Central Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify.

(*2*) Subject to the conditions specified in the notification issued under sub-section (*1*),—

(*a*) where any proper officer issues an order under this Act, he shall also issue an order under the Central Goods and Services Tax Act, as authorised by the said Act under intimation to the jurisdictional officer of central tax;

(*b*) where a proper officer under the Central Goods and Services Tax Act has initiated any proceedings on a subject matter, no proceedings shall be initiated by the proper officer under this Act on the same subject matter.

(*3*) Any proceedings for rectification, appeal and revision, wherever applicable, of any order passed by an officer appointed under this Act, shall not lie before an officer appointed under the Central Goods and Services Tax Act.

CHAPTER III

LEVY AND COLLECTION OF TAX

Levy and collection.

7. (*1*) Subject to the provisions of sub-section (2), there shall be levied a tax called the Union territory tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding twenty per cent., as may be notified by the Central Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

(*2*) The Union territory tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Central Government on the recommendations of the Council.

(*3*) The Central Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

(*4*) The Union territory tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

(*5*) The Central Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

Power to grant exemption from tax.

8. (*1*) Where the Central Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by notification, exempt generally either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.

(*2*) Where the Central Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.

(*3*) The Central Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (*1*) or order issued under sub-section (*2*), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (*1*) or order under sub-section (*2*), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

(*4*) Any notification issued by the Central Government under sub-section (*1*) of section 11 or order issued under sub-section (*2*) of the said section of the Central Goods and Services Tax Act shall be deemed to be a notification or, as the case may be, an order issued under this Act.

Explanation.—For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.

CHAPTER IV

PAYMENT OF TAX

Payment of tax.

9. The amount of input tax credit available in the electronic credit ledger of the registered person on account of,—

(*a*) integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order;

(*b*) the Union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax;

(*c*) the Union territory tax shall not be utilised towards payment of central tax.

Transfer of input tax credit.

10. On utilisation of input tax credit of Union territory tax for payment of tax dues under the Integrated Goods and Services Tax Act in accordance with the provisions of sub-section (*5*) of section 49 of the Central Goods and Services Tax Act, as reflected in the valid return furnished under sub-section (*1*) of section 39 of the Central Goods and Services Tax Act, the amount collected as Union territory tax shall stand reduced by an amount equal to such credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the Union territory tax account to the integrated tax account in such manner and within such time as may be prescribed.

CHAPTER V

INSPECTION, SEARCH, SEIZURE AND ARREST

Officers required to assist proper officers.

11. (*1*) All officers of Police, Railways, Customs, and those officers engaged in the collection of land revenue, including village officers, and officers of central tax and officers of the State tax shall assist the proper officers in the implementation of this Act.

(*2*) The Government may, by notification, empower and require any other class of officers to assist the proper officers in the implementation of this Act when called upon to do so by the Commissioner.

CHAPTER VI

DEMANDS AND RECOVERY

Tax wrongfully collected and paid to Central Government or Union territory Government.

12. (*1*) A registered person who has paid the central tax and the Union territory tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.

(*2*) A registered person who has paid integrated tax on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall not be required to pay any interest on the amount of the central tax and the Union territory tax payable.

Recovery of tax.

13. (*1*) Where any amount of tax, interest or penalty is payable by a person to the Government under any of the provisions of this Act or the rules made thereunder and which remains unpaid, the proper officer of central tax, during the course of recovery of said tax arrears, may recover the amount from the said person as if it were an arrear of central tax and credit the amount so recovered to the account of the Government under the appropriate head of Union terrirtory tax.

(*2*) Where the amount recovered under sub-section (*1*) is less than the amount due to the Government under this Act and the Central Goods and Services Tax Act, the amount to be credited to the account of the Government shall be in proportion to the amount due as Union territory tax and central tax.

CHAPTER VII

ADVANCE RULING

Definitions.

14. In this Chapter, unless the context otherwise requires,—

(*a*) ''advance ruling'' means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (*2*) of section 97 or sub-section (*1*) of section 100 of the Central Goods and Services Tax Act, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;

(*b*) ''Appellate Authority'' means the Appellate Authority for Advance Ruling constituted under section 16;

(*c*) ''applicant'' means any person registered or desirous of obtaining registration under this Act;

(*d*) ''application'' means an application made to the Authority under sub-section (*1*) of section 97 of the Central Goods and Services Tax Act;

(*e*) ''Authority'' means the Authority for Advance Ruling, constituted under section 15.

Constitution of Authority for Advance Ruling.

15. (*1*) The Central Government shall, by notification, constitute an Authority to be known as the (name of the Union territory) Authority for Advance Ruling:

Provided that the Central Government may, on the recommendations of the Council, notify any Authority located in any State or any other Union territory to act as the Authority for the purposes of this Act.

(*2*) The Authority shall consist of—

(*i*) one member from amongst the officers of central tax; and

(*ii*) one member from amongst the officers of Union territory tax,

to be appointed by the Central Government.

(*3*) The qualifications, the method of appointment of the members and the terms and conditions of their service shall be such as may be prescribed.

Constitution of Appellate Authority for Advance Ruling.

16. (*1*) The Central Government shall, by notification, constitute an Appellate Authority to be known as the (name of the Union territory) Appellate Authority for Advance Ruling for Goods and Services Tax for hearing appeals against the advance ruling pronounced by the Advance Ruling Authority:

Provided that the Central Government may, on the recommendations of the Council, notify any Appellate Authority located in any State or any other Union territory to act as the Appellate Authority for the purposes of this Act.

(*2*) The Appellate Authority shall consist of—

(*i*) the Chief Commissioner of central tax as designated by the Board; and

(*ii*) the Commissioner of Union territory tax having jurisdiction over the applicant.

CHAPTER VIII

TRANSITIONAL PROVISIONS

Migration of existing tax payers.

17. (*1*) On and from the appointed day, every person registered under any of the existing laws and having a valid Permanent Account Number shall be issued a certificate of registration on provisional basis, subject to such conditions and in such form and manner as may be prescribed, which unless replaced by a final certificate of registration under sub-section (*2*), shall be liable to be cancelled if the conditions so prescribed are not complied with.

(*2*) The final certificate of registration shall be granted in such form and manner and subject to such conditions as may be prescribed.

(*3*) The certificate of registration issued to a person under sub-section (*1*) shall be deemed to have not been issued if the said registration is cancelled in pursuance of an application filed by such person that he was not liable to registration under section 22 or section 24 of the Central Goods and Services Tax Act.

Transitional arrangements for input tax credit.

18. (*1*) A registered person, other than a person opting to pay tax under section 10 of the Central Goods and Services Tax Act, shall be entitled to take, in his electronic credit ledger, credit of the amount of Value Added Tax and Entry Tax, if any, carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law, not later than ninety days after the said day, in such manner as may be prescribed:

Provided that the registered person shall not be allowed to take credit in the following circumstances, namely:—

(*i*) where the said amount of credit is not admissible as input tax credit under this Act; or

(*ii*) where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed day; or

(*iii*) where the said amount of credit relates to goods sold under such exemption notifications as are notified by the Government:

Provided further that so much of the said credit as is attributable to any claim related to section 3, sub-section (*3*) of section 5, section 6 or section 6A or sub-section (*8*) of section 8 of the Central Sales Tax Act, 1956 that is not substantiated in the manner, and within the period, prescribed in rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957 shall not be eligible to be credited to the electronic credit ledger:

74 of 1956.

Provided also that an amount equivalent to the credit specified in the second proviso shall be refunded under the existing law when the said claims are substantiated in the manner prescribed in rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957.

(*2*) A registered person, other than a person opting to pay tax under section 10 of the Central Goods and Services Tax Act, shall be entitled to take, in his electronic credit ledger, credit of the unavailed input tax credit in respect of capital goods, not carried forward in a return, furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that the registered person shall not be allowed to take credit unless the said credit was admissible as input tax credit under the existing law and is also admissible as input tax credit under this Act.

Explanation.—For the purposes of this section, the expression ''unavailed input tax credit'' means the amount that remains after subtracting the amount of input tax credit already availed in respect of capital goods by the taxable person under the existing law from the aggregate amount of input tax credit to which the said person was entitled in respect of the said capital goods under the existing law.

(*3*) A registered person, who was not liable to be registered under the existing law or who was engaged in the sale of exempted goods or tax free goods or goods which have suffered tax at first point of their sale in the Union territory and the subsequent sales of which are not subject to tax in the Union territory under the existing law but which are liable to tax under this Act or where the person was entitled to the credit of input tax at the time of sale of goods, shall be entitled to take, in his electronic credit ledger, credit of the value added tax and entry tax, if any, in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:—

(*i*) such inputs or goods are used or intended to be used for making taxable supplies under this Act;

(*ii*) the said registered person is eligible for input tax credit on such inputs under this Act;

(*iii*) the said registered person is in possession of invoice or other prescribed documents evidencing payment of tax under the existing law in respect of such inputs; and

(*iv*) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day:

Provided that where a registered person, other than a manufacturer or a supplier of services, is not in possession of an invoice or any other documents evidencing

payment of tax in respect of inputs, then, such registered person shall, subject to such conditions, limitations and safeguards as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient, be allowed to take credit at such rate and in such manner as may be prescribed.

(*4*) A registered person, who was engaged in the sale of taxable goods as well as exempted goods or tax free goods under the existing law but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger,—

(*a*) the amount of credit of the value added tax and entry tax, if any, carried forward in a return furnished under the existing law by him in accordance with the provisions of sub-section (*1*); and

(*b*) the amount of credit of the value added tax and entry tax, if any, in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day, relating to such exempted goods or tax free goods in accordance with the provisions of sub-section (*3*).

(*5*) A registered person shall be entitled to take, in his electronic credit ledger, credit of value added tax and entry tax, if any, in respect of inputs received on or after the appointed day but the tax in respect of which has been paid by the supplier under the existing law, subject to the condition that the invoice or any other tax paying document of the same was recorded in the books of account of such person within a period of thirty days from the appointed day:

Provided that the period of thirty days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding thirty days:

Provided further that the said registered person shall furnish a statement, in such manner as may be prescribed, in respect of credit that has been taken under this sub-section.

(*6*) A registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing law shall be entitled to take, in his electronic credit ledger, credit of value added tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:—

(*i*) such inputs or goods are used or intended to be used for making taxable supplies under this Act;

(*ii*) the said registered person is not paying tax under section 10 of the Central Goods and Services Tax Act;

(*iii*) the said registered person is eligible for input tax credit on such inputs under this Act;

(*iv*) the said registered person is in possession of invoice or other prescribed documents evidencing payment of tax under the existing law in respect of inputs; and

(*v*) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.

(*7*) The amount of credit under sub-sections (*3*), (*4*) and (*6*) shall be calculated in such manner as may be prescribed.

Transitional provisions relating to job work.

19. (*1*) Where any inputs received at a place of business had been desptached as such or desptached after being partially processed to a job worker for further processing, testing, repair, reconditioning or any other purpose in accordance with the provisions of existing law prior to the appointed day and such inputs are returned to the said place on or after the appointed day, no tax shall be payable if such inputs, after completion of the job work or otherwise, are returned to the said place within six months from the appointed day:

Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that if such inputs are not returned within a period of six months or the extended period from the appointed day, the input tax credit shall be liable to be recovered in accordance with the provisions of clause (*a*) of sub-section (*8*) of section 142 of the Central Goods and Services Tax Act.

(*2*) Where any semi-finished goods had been despatched from any place of business to any other premises for carrying out certain manufacturing processes in accordance with the provisions of existing law prior to the appointed day and such goods (hereinafter in this section referred to as ''the said goods'') are returned to the said place on or after the appointed day, no tax shall be payable if the said goods, after undergoing manufacturing processes or otherwise, are returned to the said place within six months from the appointed day:

Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that if the said goods are not returned within a period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause (*a*) of sub-section (*8*) of section 142 of the Central Goods and Services Tax Act:

Provided also that the person despatching the goods may, in accordance with the provisions of the existing law, transfer the said goods to the premises of any registered person for the purpose of supplying therefrom on payment of tax in India or without payment of tax for exports within six months or the extended period, as the case may be, from the appointed day.

(*3*) Where any goods had been despatched from the place of business without payment of tax for carrying out tests or any other process to any other premises, whether registered or not, in accordance with the provisions of existing law prior to the appointed day and such goods are returned to the said place of business on or after the appointed day, no tax shall be payable if the said goods, after undergoing tests or any other process, are returned to such place within six months from the appointed day:

Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that if the said goods are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause (*a*) of sub-section (*8*) of section 142 of the Central Goods and Services Tax Act:

Provided also that the person despatching the goods may, in accordance with the provisions of the existing law, transfer the said goods from the said other premises on payment of tax in India or without payment of tax for exports within six months or the extended period, as the case may be, from the appointed day.

(*4*) The tax under sub-sections (*1*), (*2*) and (*3*) shall not be payable only if the person despatching the goods and the job worker declare the details of the inputs or goods held in stock by the job worker on behalf of the said person on the appointed day in such form and manner and within such time as may be prescribed.

Miscellaneous transitional provisions.

20. (*1*) Where any goods on which tax, if any, had been paid under the existing law at the time of sale thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, the registered person shall be eligible for refund of the tax paid under the existing law where such goods are returned

by a person, other than a registered person, to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:

Provided that if the said goods are returned by a registered person, the return of such goods shall be deemed to be a supply.

(*2*) (*a*) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods is revised upwards on or after the appointed day, the registered person who had sold such goods shall issue to the recipient a supplementary invoice or debit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act, such supplementary invoice or debit note shall be deemed to have been issued in respect of an outward supply made under this Act.

(*b*) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods is revised downwards on or after the appointed day, the registered person who had sold such goods may issue to the recipient a credit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such credit note shall be deemed to have been issued in respect of an outward supply made under this Act:

Provided that the registered person shall be allowed to reduce his tax liability on account of issue of the credit note only if the recipient of the credit note has reduced his input tax credit corresponding to such reduction of tax liability.

(*3*) Every claim for refund filed by any person before, on or after the appointed day, for refund of any amount of input tax credit, tax, interest or any other amount paid under the existing law, shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be refunded to him in cash in accordance with the provisions of the said law:

Provided that where any claim for refund of the amount of input tax credit is fully or partially rejected, the amount so rejected shall lapse:

Provided further that no refund shall be allowed of any amount of input tax credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

(*4*) Every claim for refund filed after the appointed day for refund of any tax paid under the existing law in respect of the goods exported before or after the appointed day shall be disposed of in accordance with the provisions of the existing law:

Provided that where any for refund of input tax credit is fully or partially rejected, the amount so rejected shall lapse:

Provided further that no refund shall be allowed of any amount of input tax credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

(*5*) (*a*) Every proceeding of appeal, revision, review or reference relating to a claim for input tax credit initiated whether before, on or after the appointed day, under the existing law shall be disposed of in accordance with the provisions of the existing law, and any amount of credit found to be admissible to the claimant shall be refunded to him in cash in accordance with the provisions of the existing law and the amount rejected, if any, shall not be admissible as input tax credit under this Act:

Provided that no refund shall be allowed of any amount of input tax credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

(*b*) Every proceeding of appeal, revision, review or reference relating to recovery of input tax credit initiated whether before, on or after the appointed day, under the existing law shall be disposed of in accordance with the provisions of the existing law, and if any

amount of credit becomes recoverable as a result of such appeal, revision, review or reference, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(*6*) (*a*) Every proceeding of appeal, revision, review or reference relating to any output tax liability initiated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and if any amount becomes recoverable as a result of such appeal, revision, review or reference, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and amount so recovered shall not be admissible as input tax credit under this Act.

(*b*) Every proceeding of appeal, revision, review or reference relating to any output tax liability initiated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and any amount found to be admissible to the claimant shall be refunded to him in cash in accordance with the provisions of the existing law and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

(*7*) (*a*) Where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes recoverable from the person, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(*b*) Where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day under the existing law, any amount of tax, interest, fine or penalty becomes refundable to the taxable person, the same shall be refunded to him in cash under the said law and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

(*8*) (*a*) Where any return, furnished under the existing law, is revised after the appointed day and if, pursuant to such revision, any amount is found to be recoverable or any amount of input tax credit is found to be inadmissible, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(*b*) Where any return, furnished under the existing law, is revised after the appointed day but within the time limit specified for such revision under the existing law and if, pursuant to such revision, any amount is found to be refundable or input tax credit is found to be admissible to any taxable person, the same shall be refunded to him in cash under the existing law and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

(*9*) Save as otherwise provided in this Chapter, the goods or services or both supplied on or after the appointed day in pursuance of a contract entered into prior to the appointed day shall be liable to tax under the provisions of this Act.

(*10*) (*a*) Notwithstanding anything contained in section 12 of the Central Goods and Services Tax Act, no tax shall be payable on goods under this Act to the extent the tax was leviable on the said goods under the existing law.

(*b*) Notwithstanding anything contained in section 13 of the Central Goods and Services Tax Act, no tax shall be payable on services under this Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994.

32 of 1994.

(*c*) Where tax was paid on any supply, both under any existing law relating to sale of goods and under Chapter V of the Finance Act, 1994, tax shall be leviable under this Act and the taxable person shall be entitled to take credit of value added tax or service tax paid under the existing law to the extent of supplies made after the appointed day and such credit shall be calculated in such manner as may be prescribed.

32 of 1994.

(*11*) Where any goods sent on approval basis, not earlier than six months before the appointed day, are rejected or not approved by the buyer and returned to the seller on or after the appointed day, no tax shall be payable thereon if such goods are returned within six months from the appointed day:

Provided that the said period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that the tax shall be payable by the person returning the goods if such goods are liable to tax under this Act and are returned after the period specified in this sub-section:

Provided also that tax shall be payable by the person who has sent the goods on approval basis if such goods are liable to tax under this Act, and are not returned within the period specified in this sub-section.

(*12*) Where a supplier has made any sale of goods in respect of which tax was required to be deducted at source under any existing law relating to sale of goods and has also issued an invoice for the same before the appointed day, no deduction of tax at source under section 51 of the Central Goods and Services Tax Act, as made applicable to this Act, shall be made by the deductor under the said section where payment to the said supplier is made on or after the appointed day.

Explanation.—For the purposes of this Chapter, the expression ''capital goods'' shall have the same meaning as assigned to it in any existing law relating to sale of goods.

CHAPTER IX

MISCELLANEOUS

Application of provisions of Central Goods and Services Tax Act.

21. Subject to the provisions of this Act and the rules made thereunder, the provisions of the Central Goods and Services Tax Act, relating to,—

(*i*) scope of supply;

(*ii*) composition levy;

(*iii*) composite supply and mixed supply;

(*iv*) time and value of supply;

(*v*) input tax credit;

(*vi*) registration;

(*vii*) tax invoice, credit and debit notes;

(*viii*) accounts and records;

(*ix*) returns;

(*x*) payment of tax;

(*xi*) tax deduction at source;

(*xii*) collection of tax at source;

(*xiii*) assessment;

(*xiv*) refunds;

(*xv*) audit;

(*xvi*) inspection, search, seizure and arrest;

(*xvii*) demands and recovery;

(*xviii*) liability to pay in certain cases;

(*xix*) advance ruling;

(*xx*) appeals and revision;

(*xxi*) presumption as to documents;

(*xxii*) offences and penalties;

(*xxiii*) job work;

(*xxiv*) electronic commerce;

(*xxv*) settlement of funds;

(*xxvi*) transitional provisions; and

(*xxvii*) miscellaneous provisions including the provisions relating to the imposition of interest and penalty,

shall, *mutatis mutandis*, apply,—

(*a*) so far as may be, in relation to Union territory tax as they apply in relation to central tax as if they were enacted under this Act;

(*b*) subject to the following modifications and alterations which the Central Government considers necessary and desirable to adapt those provisions to the circumstances, namely:—

(*i*) references to ''this Act'' shall be deemed to be references to ''the Union Territory Goods and Services Tax Act, 2017'';

(*ii*) references to ''Commissioner'' shall be deemed to be references to ''Commissioner'' of Union territory tax as defined in clause (*2*) of section 2 of this Act;

(*iii*) references to ''officers of central tax'' shall be deemed to be references to ''officers of Union territory tax'';

(*iv*) references to ''central tax'' shall be deemed to be references to ''Union territory tax'' and *vice versa*;

(*v*) references to ''Commissioner of State tax or Commissioner of Union territory tax'' shall be deemed to be references to ''Commissioner of central tax'';

(*vi*) references to ''State Goods and Services Tax Act or Union Territory Goods and Services Tax Act'' shall be deemed to be references to ''Central Goods and Services Tax Act'';

(*vii*) references to ''State tax or Union territory tax'' shall be deemed to be references to ''central tax''.

Power to make rules.

22. (*1*) The Central Government may, on the recommendations of the Council, by notification, make rules for carrying out the provisions of this Act.

(*2*) Without prejudice to the generality of the provisions of sub-section (*1*), the Central Government may make rules for all or any of the matters which by this Act are required to be, or may be, prescribed or in respect of which provisions are to be or may be made by rules.

(*3*) The power to make rules conferred by this section shall include the power to give retrospective effect to the rules or any of them from a date not earlier than the date on which the provisions of this Act come into force.

(*4*) Any rules made under sub-section (*1*) may provide that a contravention thereof shall be liable to a penalty not exceeding ten thousand rupees.

General power to make regulations.

23. The Board may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

Laying of rules, regulations and notifications.

24. Every rule made by the Central Government, every regulation made by the Board and every notification issued by the Central Government under this Act, shall be laid, as soon as may be, after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or in the notification, as the case may be, or both Houses agree that the rule or regulation or the notification should not be made, the rule or regulation or notification, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification, as the case may be.

Power to issue instructions or directions

25. The Commissioner may, if he considers it necessary or expedient so to do for the purpose of uniformity in the implementation of this Act, issue such orders, instructions or directions to the Union territory tax officers as he may deem fit, and thereupon all such officers and all other persons employed in the implementation of this Act shall observe and follow such orders, instructions or directions.

Removal of difficulties.

26. (*1*) If any difficulty arises in giving effect to any provision of this Act, the Central Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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भारत का राजपत्र
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 12*th April,* 2017/*Chaitra* 22, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 12th April, 2017, and is hereby published for general information:—

THE GOODS AND SERVICES TAX (COMPENSATION TO STATES) ACT, 2017

NO. 15 OF 2017

[12*th April*, 2017.]

An Act to provide for compensation to the States for the loss of revenue arising on account of implementation of the goods and services tax in pursuance of the provisions of the Constitution (One Hundred and First Amendment) Act, 2016.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Goods and Services Tax (Compensation to States) Act, 2017.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. (*1*) In this Act, unless the context otherwise requires,—

(*a*) "central tax" means the central goods and services tax levied and collected under the Central Goods and Services Tax Act;

(*b*) "Central Goods and Services Tax Act" means the Central Goods and Services Tax Act, 2017;

(*c*) "cess" means the goods and services tax compensation cess levied under section 8;

(*d*) "compensation" means an amount, in the form of goods and services tax compensation, as determined under section 7;

(*e*) "Council" means the Goods and Services Tax Council constituted under the provisions of article 279A of the Constitution;

(*f*) "Fund" means the Goods and Services Tax Compensation Fund referred to in section 10;

(*g*) "input tax" in relation to a taxable person, means,—

(*i*) cess charged on any supply of goods or services or both made to him;

(*ii*) cess charged on import of goods and includes the cess payable on reverse charge basis;

(*h*) "Integrated Goods and Services Tax Act" means the Integrated Goods and Services Tax Act, 2017;

(*i*) "integrated tax" means the integrated goods and services tax levied and collected under the Integrated Goods and Services Tax Act;

(*j*) "prescribed" means prescribed by rules made, on the recommendations of the Council, under this Act;

(*k*) "projected growth rate" means the rate of growth projected for the transition period as per section 3;

(*l*) "Schedule" means the Schedule appended to this Act;

(*m*) "State" means,—

(*i*) for the purposes of sections 3, 4, 5, 6 and 7 the States as defined under the Central Goods and Services Tax Act; and

(*ii*) for the purposes of sections 8, 9, 10, 11, 12, 13 and 14 the States as defined under the Central Goods and Services Tax Act and the Union territories as defined under the Union Territories Goods and Services Tax Act;

(*n*) "State tax" means the State goods and services tax levied and collected under the respective State Goods and Services Tax Act;

(*o*) "State Goods and Services Tax Act" means the law to be made by the State Legislature for levy and collection of tax by the concerned State on supply of goods or services or both;

(*p*) "taxable supply'' means a supply of goods or services or both which is chargeable to the cess under this Act;

(*q*) "transition date" shall mean, in respect of any State, the date on which the State Goods and Services Tax Act of the concerned State comes into force;

(*r*) "transition period" means a period of five years from the transition date; and

(*s*) "Union Territories Goods and Services Tax Act" means the Union Territories Goods and Services Tax Act, 2017.

(*2*) The words and expressions used and not defined in this Act but defined in the Central Goods and Services Tax Act and the Integrated Goods and Services Tax Act shall have the meanings respectively assigned to them in those Acts.

Projected growth rate.

3. The projected nominal growth rate of revenue subsumed for a State during the transition period shall be fourteen per cent. per annum.

Base year.

4. For the purpose of calculating the compensation amount payable in any financial year during the transition period, the financial year ending 31st March, 2016, shall be taken as the base year.

Base year revenue.

5. (*1*) Subject to the provision of sub-sections (*2*), (*3*), (*4*), (*5*) and (*6*), the base year revenue for a State shall be the sum of the revenue collected by the State and the local bodies during the base year, on account of the taxes levied by the respective State or Union and net of refunds, with respect to the following taxes, imposed by the respective State or Union, which are subsumed into goods and services tax, namely:—

(*a*) the value added tax, sales tax, purchase tax, tax collected on works contract, or any other tax levied by the concerned State under the erstwhile entry 54 of List-II (State List) of the Seventh Schedule to the Constitution;

74 of 1956.

(*b*) the central sales tax levied under the Central Sales Tax Act, 1956;

(*c*) the entry tax, octroi, local body tax or any other tax levied by the concerned State under the erstwhile entry 52 of List-II (State List) of the Seventh Schedule to the Constitution;

(*d*) the taxes on luxuries, including taxes on entertainments, amusements, betting and gambling or any other tax levied by the concerned State under the erstwhile entry 62 of List-II (State List) of the Seventh Schedule to the onstitution;

(*e*) the taxes on advertisement or any other tax levied by the concerned State under the erstwhile entry 55 of List-II (State List) of the Seventh Schedule to the Constitution;

(*f*) the duties of excise on medicinal and toilet preparations levied by the Union but collected and retained by the concerned State Government under the erstwhile article 268 of the Constitution;

(*g*) any cess or surcharge or fee leviable under entry 66 read with entries 52, 54, 55 and 62 of List-II of the Seventh Schedule to the Constitution by the State Government under any Act notified under sub-section (*4*),

prior to the commencement of the provisions of the Constitution (One Hundred and First Amendment) Act, 2016:

Provided that the revenue collected during the base year in a State, net of refunds, under the following taxes shall not be included in the calculation of the base year revenue for that State, namely:—

(*a*) any taxes levied under any Act enacted under the erstwhile entry 54 of List-II (State List) of the Seventh Schedule to the Constitution, prior to the coming into force of the provisions of the Constitution (One Hundred and First Amendment) Act, 2016, on the sale or purchase of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption;

74 of 1956.

(*b*) tax levied under the Central Sales Tax Act, 1956, on the sale or purchase of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption;

(*c*) any cess imposed by the State Government on the sale or purchase of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption; and

(*d*) the entertainment tax levied by the State but collected by local bodies, under any Act enacted under the erstwhile entry 62 of List-II (State List) of the Seventh Schedule to the Constitution, prior to coming into force of the provisions of the Constitution (One Hundred and First Amendment) Act, 2016.

(*2*) In respect of the State of Jammu and Kashmir, the base year revenue shall include the amount of tax collected on sale of services by the said State Government during the base year.

(*3*) In respect of the States mentioned in sub-clause (*g*) of clause (4) of article 279A of the Constitution, the amount of revenue foregone on account of exemptions or remission given by the said State Governments to promote industrial investment in the State, with respect to such specific taxes referred to in sub-section (*1*), shall be included in the total base year revenue of the State, subject to such conditions as may be prescribed.

(*4*) The Acts of the Central Government and State Governments under which the specific taxes are being subsumed into the goods and services tax shall be such as may be notified.

(*5*) The base year revenue shall be calculated as per sub-sections (*1*), (*2*), (*3*) and (*4*) on the basis of the figures of revenue collected and net of refunds given in that year, as audited by the Comptroller and Auditor-General of India.

(*6*) In respect of any State, if any part of revenues mentioned in sub-sections (*1*), (*2*), (*3*) and (*4*) are not credited in the Consolidated Fund of the respective State, the same shall be included in the total base year revenue of the State, subject to such conditions as may be prescribed.

Projected revenue for any year.

6. The projected revenue for any year in a State shall be calculated by applying the projected growth rate over the base year revenue of that State.

Illustration.—If the base year revenue for 2015-16 for a concerned State, calculated as per section 5 is one hundred rupees, then the projected revenue for financial year 2018-19 shall be as follows—

Projected Revenue for 2018-19=100 $(1+14/100)^3$

Calculation and release of compensation.

7. (*1*) The compensation under this Act shall be payable to any State during the transition period.

(*2*) The compensation payable to a State shall be provisionally calculated and released at the end of every two months period, and shall be finally calculated for every financial year after the receipt of final revenue figures, as audited by the Comptroller and Auditor-General of India:

Provided that in case any excess amount has been released as compensation to a State in any financial year during the transition period, as per the audited figures of revenue collected, the excess amount so released shall be adjusted against the compensation amount payable to such State in the subsequent financial year.

(*3*) The total compensation payable for any financial year during the transition period to any State shall be calculated in the following manner, namely:—

(*a*) the projected revenue for any financial year during the transition period, which could have accrued to a State in the absence of the goods and services tax, shall be calculated as per section 6;

(*b*) the actual revenue collected by a State in any financial year during the transition period shall be—

(*i*) the actual revenue from State tax collected by the State, net of refunds given by the said State under Chapters XI and XX of the State Goods and Services Tax Act;

(*ii*) the integrated goods and services tax apportioned to that State; and

(*iii*) any collection of taxes on account of the taxes levied by the respective State under the Acts specified in sub-section (*4*) of section 5, net of refund of such taxes,

as certified by the Comptroller and Auditor-General of India;

(*c*) the total compensation payable in any financial year shall be the difference between the projected revenue for any financial year and the actual revenue collected by a State referred to in clause (*b*).

(*4*) The loss of revenue at the end of every two months period in any year for a State during the transition period shall be calculated, at the end of the said period, in the following manner, namely:—

(*a*) the projected revenue that could have been earned by the State in absence of the goods and services tax till the end of the relevant two months period of the respective financial year shall be calculated on a *pro-rata* basis as a percentage of the total projected revenue for any financial year during the transition period, calculated in accordance with section 6.

Illustration.—If the projected revenue for any year calculated in accordance with section 6 is one hundred rupees, for calculating the projected revenue that could be earned till the end of the period of ten months for the purpose of this sub-section shall be 100x(5/6)=Rs.83.33;

(*b*) the actual revenue collected by a State till the end of relevant two months period in any financial year during the transition period shall be—

(*i*) the actual revenue from State tax collected by the State, net of refunds given by the State under Chapters XI and XX of the State Goods and Services Tax Act;

(*ii*) the integrated goods and services tax apportioned to that State, as certified by the Principal Chief Controller of Accounts of the Central Board of Excise and Customs; and

(*iii*) any collection of taxes levied by the said State, under the Acts specified in sub-section (*4*) of section 5, net of refund of such taxes;

(*c*) the provisional compensation payable to any State at the end of the relevant two months period in any financial year shall be the difference between the projected revenue till the end of the relevant period in accordance with clause (*a*) and the actual revenue collected by a State in the said period as referred to in clause (*b*), reduced by the provisional compensation paid to a State till the end of the previous two months period in the said financial year during the transition period.

(*5*) In case of any difference between the final compensation amount payable to a State calculated in accordance with the provisions of sub-section (*3*) upon receipt of the audited revenue figures from the Comptroller and Auditor-General of India, and the total provisional compensation amount released to a State in the said financial year in accordance with the provisions of sub-section (*4*), the same shall be adjusted against release of compensation to the State in the subsequent financial year.

(*6*) Where no compensation is due to be released in any financial year, and in case any excess amount has been released to a State in the previous year, this amount shall be refunded by the State to the Central Government and such amount shall be credited to the Fund in such manner as may be prescribed.

Levy and collection of cess.

8. (*1*) There shall be levied a cess on such intra-State supplies of goods or services or both, as provided for in section 9 of the Central Goods and Services Tax Act, and such inter-State supplies of goods or services or both as provided for in section 5 of the Integrated Goods and Services Tax Act, and collected in such manner as may be prescribed, on the recommendations of the Council, for the purposes of providing compensation to the States for loss of revenue arising on account of implementation of the goods and services tax with effect from the date from which the provisions of the Central Goods and Services Tax Act is brought into force, for a period of five years or for such period as may be prescribed on the recommendations of the Council:

Provided that no such cess shall be leviable on supplies made by a taxable person who has decided to opt for composition levy under section 10 of the Central Goods and Services Tax Act.

(*2*) The cess shall be levied on such supplies of goods and services as are specified in column (2) of the Schedule, on the basis of value, quantity or on such basis at such rate not exceeding the rate set forth in the corresponding entry in column (4) of the Schedule, as the Central Government may, on the recommendations of the Council, by notification in the Official Gazette, specify:

Provided that where the cess is chargeable on any supply of goods or services or both with reference to their value, for each such supply the value shall be determined under section 15 of the Central Goods and Services Tax Act for all intra-State and inter-State supplies of goods or services or both:

Provided further that the cess on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975, at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962, on a value determined under the Customs Tariff Act, 1975. 51 of 1975. 52 of 1962.

Returns, payments and refunds.

9. (*1*) Every taxable person, making a taxable supply of goods or services or both, shall—

(*a*) pay the amount of cess as payable under this Act in such manner;

(*b*) furnish such returns in such forms, along with the returns to be filed under the Central Goods and Services Tax Act; and

(*c*) apply for refunds of such cess paid in such form,

as may be prescribed.

(*2*) For all purposes of furnishing of returns and claiming refunds, except for the form to be filed, the provisions of the Central Goods and Services Tax Act and the rules made thereunder, shall, as far as may be, apply in relation to the levy and collection of the cess leviable under section 8 on all taxable supplies of goods or services or both, as they apply in relation to the levy and collection of central tax on such supplies under the said Act or the rules made thereunder.

Crediting proceeds of cess to Fund.

10. (*1*) The proceeds of the cess leviable under section 8 and such other amounts as may be recommended by the Council, shall be credited to a non-lapsable Fund known as the Goods and Services Tax Compensation Fund, which shall form part of the public account of India and shall be utilised for purposes specified in the said section.

(*2*) All amounts payable to the States under section 7 shall be paid out of the Fund.

(*3*) Fifty per cent. of the amount remaining unutilised in the Fund at the end of the transition period shall be transferred to the Consolidated Fund of India as the share of Centre, and the balance fifty per cent. shall be distributed amongst the States in the ratio of their total revenues from the State tax or the Union territory goods and services tax, as the case may be, in the last year of the transition period.

(*4*) The accounts relating to Fund shall be audited by the Comptroller and Auditor-General of India or any person appointed by him at such intervals as may be specified by him and any expenditure in connection with such audit shall be payable by the Central Government to the Comptroller and Auditor-General of India.

(*5*) The accounts of the Fund, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be laid before each House of Parliament.

Other provisions relating to cess.

11. (*1*) The provisions of the Central Goods and Services Tax Act, and the rules made thereunder, including those relating to assessment, input tax credit, non-levy, short-levy, interest, appeals, offences and penalties, shall, as far as may be, *mutatis mutandis*, apply, in relation to the levy and collection of the cess leviable under section 8 on the intra-State supply of goods and services, as they apply in relation to the levy and collection of central tax on such intra-State supplies under the said Act or the rules made thereunder.

(*2*) The provisions of the Integrated Goods and Services Tax Act, and the rules made thereunder, including those relating to assessment, input tax credit, non-levy, short-levy, interest, appeals, offences and penalties, shall, *mutatis mutandis*, apply in relation to the levy and collection of the cess leviable under section 8 on the inter-State supply of goods and services, as they apply in relation to the levy and collection of integrated tax on such inter-State supplies under the said Act or the rules made thereunder:

Provided that the input tax credit in respect of cess on supply of goods and services leviable under section 8, shall be utilised only towards payment of said cess on supply of goods and services leviable under the said section.

Power to make rules.

12. (*1*) The Central Government shall, on the recommendations of the Council, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the conditions which were included in the total base year revenue of the States, referred to in sub-clause (*g*) of clause (4) of article 279A of the Constitution, under sub-section (*3*) of section 5;

(*b*) the conditions subject to which any part of revenues not credited in the Consolidated Fund of the respective State shall be included in the total base year revenue of the State, under sub-section (*6*) of section 5;

(*c*) the manner of refund of compensation by the States to the Central Government under sub-section (*6*) of section 7;

(*d*) the manner of levy and collection of cess and the period of its imposition under sub-section (*1*) of section 8;

(*e*) the manner and forms for payment of cess, furnishing of returns and refund of cess under sub-section (*1*) of section 9; and

(*f*) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

Laying of rules before Parliament.

13. Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties.

14. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, on the recommendations of the Council, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of three years from the commencement of this Act.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

THE SCHEDULE

[*See* section 8 (*2*)]

1. In this Schedule, reference to a "tariff item", "heading", "sub-heading" and "Chapter", wherever they occur, shall mean respectively a tariff item, heading, sub-heading and Chapter in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

2. The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), the section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this Schedule.

S. No.	Description of supply of goods or services	Tariff item, heading, sub-heading, Chapter, or supply of goods or services, as the case may be	The maximum rate at which goods and services tax compansation cess may be collected
(1)	(2)	(3)	(4)
1.	Pan Masala.	2106 90 20	One hundred and thirty-five per cent. *ad valorem*.
2.	Tobacco and manufactured tobacco substitutes, including tobacco products.	24	Four thousand one hundred and seventy rupees per thousand sticks or two hundred and ninety per cent. *ad valorem* or a combination thereof, but not exceeding four thousand one hundred and seventy rupees per thousand sticks plus two hundred and ninety per cent. *ad valorem.*
3.	Coal, briquettes, ovoids and similar solid fuels manufactured from coal, lignite, whether or not agglomerated, excluding jet, peat (including peat litter), whether or not agglomerated.	2701, 2702 or 2703	Four hundred rupees per tonne.
4.	Aerated waters.	2202 10 10	Fifteen per cent. *ad valorem*.
5.	Motor cars and other motor vehicles principally designed for the transport of persons (other than motor vehicles for the transport of ten or more persons, including the driver), including station wagons and racing cars.	8703	Fifteen per cent. *ad valorem*.
6.	Any other supplies.		Fifteen per cent. *ad valorem*.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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The Gazette of India

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अधिसूचना

नई दिल्ली, 28 जून, 2017

सं. 1/2017- माल और सेवा कर प्रतिकर

सा.का.नि. 700 (अ).— केंद्रीय सरकार, माल और सेवा कर (राज्यों को प्रतिकर) अधिनियम, 2017 (2017 का 15) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, 1 जुलाई, 2017 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के सभी उपबंध प्रवृत्त होंगे ।

[फा. सं. एस-31011/28/2016-एसटी-I-डीओआर]
महेन्द्र नाथ, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION

New Delhi, the 28th June, 2017

No. 1/2017–Goods and Services Tax Compensation

G.S.R.700 (E).— In exercise of the powers conferred by sub-section (3) of section 1 of the Goods and Services Tax (Compensation to States) Act, 2017 (15 of 2017), the Central Government hereby appoints the 1st day of July, 2017, as the date on which all the provisions of the said Act shall come into force.

[F. No. S-31011/28/2016-ST-I DOR]
MAHENDRA NATH, Under Secy.

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 21*st April*, 2017/*Vaisakha* 1, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 20th April, 2017, and is hereby published for general information:—

THE HUMAN IMMUNODEFICIENCY VIRUS AND ACQUIRED IMMUNE DEFICIENCY SYNDROME (PREVENTION AND CONTROL) ACT, 2017

NO. 16 OF 2017

[20*th April*, 2017.]

An Act to provide for the prevention and control of the spread of Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome and for the protection of human rights of persons affected by the said virus and syndrome and for matters connected therewith or incidental thereto.

WHEREAS the spread of Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome is a matter of grave concern to all and there is an urgent need for the prevention and control of said virus and syndrome;

AND WHEREAS there is a need to protect and secure the human rights of persons who are HIV-positive, affected by Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome and vulnerable to the said virus and syndrome;

AND WHEREAS there is a necessity for effective care, support and treatment for Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome;

AND WHEREAS there is a need to protect the rights of healthcare providers and other persons in relation to Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome;

AND WHEREAS the General Assembly of the United Nations, recalling and reaffirming its previous commitments on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome, has adopted the Declaration of Commitment on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (2001) to address the problems of Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome in all its aspects and to secure a global commitment to enhancing coordination and intensification of national, regional and international efforts to combat it in a comprehensive manner;

AND WHEREAS the Republic of India, being a signatory to the aforesaid Declaration, it is expedient to give effect to the said Declaration.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act**,** 2017.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "AIDS" means Acquired Immune Deficiency Syndrome, a condition characterised by a combination of signs and symptoms, caused by Human Immunodeficiency Virus, which attacks and weakens the body's immune system making the HIV-positive person susceptible to life threatening conditions or other conditions, as may be specified from time to time;

(*b*) "capacity to consent" means ability of an individual, determined on an objective basis, to understand and appreciate the nature and consequences of a proposed action and to make an informed decision concerning such action;

(*c*) "child affected by HIV" means a person below the age of eighteen years, who is HIV-positive or whose parent or guardian (with whom such child normally resides) is HIV-positive or has lost a parent or guardian **(**with whom such child resided) due to AIDS or lives in a household fostering children orphaned by AIDS;

(*d*) "discrimination" means any act or omission which directly or indirectly, expressly or by effect, immediately or over a period of time,—

(*i*) imposes any burden, obligation, liability, disability or disadvantage on any person or category of persons, based on one or more HIV-related grounds; or

(*ii*) denies or withholds any benefit, opportunity or advantage from any person or category of persons, based on one or more HIV-related grounds**,**

and the expression "discriminate" to be construed accordingly.

Explanation 1.—For the purposes of this clause, HIV-related grounds include—

(*i*) being an HIV-positive person;

(*ii*) ordinarily living, residing or cohabiting with a person who is HIV-positive person;

(*iii*) ordinarily lived, resided or cohabited with a person who was HIV-positive.

Explanation 2.—For the removal of doubts, it is hereby clarified that adoption of medically advised safeguards and precautions to minimise the risk of infection shall not amount to discrimination;

(*e*) "domestic relationship" means a relationship as defined under clause (*f*) of section 2 of the Protection of Women from Domestic Violence Act, 2005; 43 of 2005.

(*f*) "establishment" means a body corporate or co-operative society or any organisation or institution or two or more persons jointly carrying out a systematic activity for a period of twelve months or more at one or more places for consideration or otherwise, for the production, supply or distribution of goods or services;

(*g*) "guidelines" means any statement or any other document issued by the Central Government indicating policy or procedure or course of action relating to HIV and AIDS to be followed by the Central Government, State Governments, governmental and non-governmental organisations and establishments and individuals dealing with prevention, control and treatment of HIV or AIDS;

(*h*) "healthcare provider" means any individual whose vocation or profession is directly or indirectly related to the maintenance of the health of another individual and includes any physician, nurse, paramedic, psychologist, counsellor or other individual providing medical, nursing, psychological or other healthcare services including HIV prevention and treatment services;

(*i*) "HIV" means Human Immunodeficiency Virus;

(*j*) "HIV-affected person" means an individual who is HIV-positive or whose partner (with whom such individual normally resides) is HIV-positive or has lost a partner (with whom such individual resided) due to AIDS;

(*k*) "HIV-positive person" means a person whose HIV test has been confirmed positive;

(*l*) "HIV-related information" means any information relating to the HIV status of a person and includes—

(*i*) information relating to the undertaking performing the HIV test or result of an HIV test;

(*ii*) information relating to the care, support or treatment of that person;

(*iii*) information which may identify that person; and

(*iv*) any other information concerning that person, which is collected, received, accessed or recorded in connection with an HIV test, HIV treatment or HIV-related research or the HIV status of that person;

(*m*) "HIV test" means a test to determine the presence of an antibody or antigen of HIV;

(*n*) "informed consent" means consent given by any individual or his representative specific to a proposed intervention without any coercion, undue influence, fraud, mistake or misrepresentation and such consent obtained after informing such individual or his representative, as the case may be, such information, as specified in the guidelines, relating to risks and benefits of, and alternatives to, the proposed intervention in such language and in such manner as understood by that individual or his representative, as the case may be;

(*o*) "notification" means a notification published in the Official Gazette;

(*p*) "partner" means a spouse, *de facto* spouse or a person with whom another person has relationship in the nature of marriage;

(*q*) "person" includes an individual, a Hindu Undivided Family, a company, a firm, an association of persons or a body of individuals, whether incorporated or not, in India or outside India, any corporation established by or under any Central or State Act or any company including a Government company incorporated under the Companies Act, 1956, any Limited Liability Partnership under the Limited Liability Partnership Act, 2008, any body corporate incorporated by or under the laws of a country outside India, a co-operative society registered under any law relating to co-operative societies, a local authority, and every other artificial juridical person**;** 1 of 1956. 6 of 2009.

(*r*) "prescribed" means prescribed by rules made by the Central Government or the State Government, as the case may be;

(*s*) "protected person" means a person who is—

(*i*) HIV-Positive; or

(*ii*) ordinarily living, residing or cohabiting with a person who is HIV-positive person; or

(*iii*) ordinarily lived, resided or cohabited with a person who was HIV- positive;

(*t*) "reasonable accommodation" means minor adjustments to a job or work that enables an HIV-positive person who is otherwise qualified to enjoy equal benefits or to perform the essential functions of the job or work, as the case may be;

(*u*) "relative", with reference to the protected person, means—

(*i*) spouse of the protected person;

(*ii*) parents of the protected person;

(*iii*) brother or sister of the protected person;

(*iv*) brother or sister of the spouse of the protected person;

(*v*) brother or sister of either of the parents of the protected person;

(*vi*) in the absence of any of the relatives mentioned at sub-clauses (*i*) to (*v*), any lineal ascendant or descendant of the protected person;

(*vii*) in the absence of any of the relatives mentioned at sub-clauses (*i*) to (*vi*), any lineal ascendant or descendant of the spouse of the protected person;

(*v*) "significant-risk" means—

(*a*) the presence of significant-risk body substances;

(*b*) a circumstance which constitutes significant-risk for transmitting or contracting HIV infection; or

(*c*) the presence of an infectious source and an uninfected person.

Explanation.—For the purpose of this clause,—

(*i*) "significant-risk body substances" are blood, blood products, semen, vaginal secretions, breast milk, tissue and the body fluids, namely, cerebrospinal, amniotic, peritoneal, synovial, pericardial and pleural;

(ii)"circumstances which constitute significant-risk for transmitting or contracting HIV infection" are—

(*A*) sexual intercourse including vaginal, anal or oral sexual intercourse which exposes an uninfected person to blood, blood products, semen or vaginal secretions of an HIV-positive person;

(*B*) sharing of needles and other paraphernalia used for preparing and injecting drugs between HIV-positive persons and uninfected persons;

(*C*) the gestation, giving birth or breast feeding of an infant when the mother is an HIV-positive person;

(*D*) transfusion of blood, blood products, and transplantation of organs or other tissues from an HIV-positive person to an uninfected person, provided such blood, blood products, organs or other tissues have not been tested conclusively for the antibody or antigen of HIV and have not been rendered non-infective by heat or chemical treatment; and

(*E*) other circumstances during which a significant-risk body substance, other than breast milk, of an HIV-positive person contacts or may contact mucous membranes including eyes, nose or mouth, non-intact skin including open wounds, skin with a dermatitis condition or abraded areas or the vascular system of an uninfected person, and including such circumstances not limited to needle-stick or puncture wound injuries and direct saturation or permeation of these body surfaces by the significant-risk body substances:

Provided that "significant-risk" shall not include—

(*i*) exposure to urine, faeces, sputum, nasal secretions, saliva, sweat, tears or vomit that does not contain blood that is visible to the naked eye;

(*ii*) human bites where there is no direct blood to blood, or no blood to mucous membrane contact;

(*iii*) exposure of intact skin to blood or any other blood substance; and

(*iv*) occupational centres where individuals use scientifically accepted Universal Precautions, prohibitive techniques and preventive practices in circumstances which would otherwise pose a significant-risk and such techniques are not breached and remain intact;

(*w*) "State AIDS Control Society" means the nodal agency of the State Government responsible for implementing programmes in the field of HIV and AIDS;

(*x*) **"**State Government", in relation to a Union territory, means the Administrator of that Union territory appointed by the President under article 239 of the Constitution; and

(*y*) "Universal Precautions" means control measures that prevent exposure to or reduce, the risk of transmission of pathogenic agents (including HIV) and includes education, training, personal protective equipment such as gloves, gowns and masks, hand washing, and employing safe work practices.

CHAPTER II

PROHIBITION OF CERTAIN ACTS

Prohibition of discrimination.

3. No person shall discriminate against the protected person on any ground including any of the following, namely:—

(*a*) the denial of, or termination from, employment or occupation, unless, in the case of termination, the person, who is otherwise qualified, is furnished with—

(*i*) a copy of the written assessment of a qualified and independent healthcare provider competent to do so that such protected person poses a significant risk of transmission of HIV to other person in the workplace, or is unfit to perform the duties of the job; and

(*ii*) a copy of a written statement by the employer stating the nature and extent of administrative or financial hardship for not providing him reasonable accommodation;

(*b*) the unfair treatment in, or in relation to, employment or occupation;

(*c*) the denial or discontinuation of, or, unfair treatment in, healthcare services;

(*d*) the denial or discontinuation of, or unfair treatment in, educational, establishments and services thereof;

(*e*) the denial or discontinuation of, or unfair treatment with regard to, access to, or provision or enjoyment or use of any goods, accommodation, service, facility, benefit, privilege or opportunity dedicated to the use of the general public or customarily available to the public, whether or not for a fee, including shops, public restaurants, hotels and places of public entertainment or the use of wells, tanks, bathing *ghats*, roads, burial grounds or funeral ceremonies and places of public resort;

(*f*) the denial, or, discontinuation of, or unfair treatment with regard to, the right of movement;

(*g*) the denial or discontinuation of, or, unfair treatment with regard to, the right to reside, purchase, rent, or otherwise occupy, any property;

(*h*) the denial or discontinuation of, or, unfair treatment in, the opportunity to stand for, or, hold public or private office;

(*i*) the denial of access to, removal from, or unfair treatment in, Government or private establishment in whose care or custody a person may be;

(*j*) the denial of, or unfair treatment in, the provision of insurance unless supported by actuarial studies;

(*k*) the isolation or segregation of a protected person;

(*l*) HIV testing as a pre-requisite for obtaining employment, or accessing healthcare services or education or, for the continuation of the same or, for accessing or using any other service or facility**:**

Provided that, in case of failure to furnish the written assessment under sub-clause (*i*) of clause (*a*), it shall be presumed that there is no significant-risk and that the person is fit to perform the duties of the job, as the case may be, and in case of the failure to furnish the written statement under sub-clause (*ii*) of that clause, it shall be presumed that there is no such undue administrative or financial hardship.

Prohibition of certain acts.

4. No person shall, by words, either spoken or written, publish, propagate, advocate or communicate by signs or by visible representation or otherwise the feelings of hatred against any protected persons or group of protected person in general or specifically or disseminate, broadcast or display any information, advertisement or notice, which may reasonably be construed to demonstrate an intention to propagate hatred or which is likely to expose protected persons to hatred, discrimination or physical violence.

CHAPTER III

INFORMED CONSENT

Informed consent for undertaking HIV test or treatment.

5. (*1*) Subject to the provisions of this Act,—

(*a*) no HIV test shall be undertaken or performed upon any person; or

(*b*) no protected person shall be subject to medical treatment, medical interventions or research,

except with the informed consent of such person or his representative and in such manner, as may be specified in the guidelines.

(*2*) The informed consent for HIV test shall include pre-test and post-test counselling to the person being tested or such person's representative in the manner as may be specified in the guidelines.

Informed consent not required for conducting HIV tests in certain cases.

6. The informed consent for conducting an HIV test shall not be required—

(*a*) where a court determines, by an order that the carrying out of the HIV test of any person either as part of a medical examination or otherwise, is necessary for the determination of issues in the matter before it;

(*b*) for procuring, processing, distribution or use of a human body or any part thereof including tissues, blood, semen or other body fluids for use in medical research or therapy:

Provided that where the test results are requested by a donor prior to donation, the donor shall be referred to counselling and testing centre and such donor shall not be entitled to the results of the test unless he has received post-test counselling from such centre;

(*c*) for epidemiological or surveillance purposes where the HIV test is anonymous and is not for the purpose of determining the HIV status of a person:

Provided that persons who are subjects of such epidemiological or surveillance studies shall be informed of the purposes of such studies; and

(*d*) for screening purposes in any licensed blood bank.

Guidelines for testing centres, etc.

7. No HIV test shall be conducted or performed by any testing or diagnostic centre or pathology laboratory or blood bank, unless such centre or laboratory or blood bank follows the guidelines laid down for such test.

CHAPTER IV

DISCLOSURE OF HIV STATUS

Disclosure of HIV status.

8. (*1*) Notwithstanding anything contained in any other law for the time being in force,—

(*i*) no person shall be compelled to disclose his HIV status except by an order of the court that the disclosure of such information is necessary in the interest of justice for the determination of issues in the matter before it;

(*ii*) no person shall disclose or be compelled to disclose the HIV status or any other private information of other person imparted in confidence or in a relationship of a fiduciary nature, except with the informed consent of that other person or a representative of such another person obtained in the manner as specified in section 5, as the case may be, and the fact of such consent has been recorded in writing by the person making such disclosure:

Provided that, in case of a relationship of a fiduciary nature, informed consent shall be recorded in writing.

(*2*) The informed consent for disclosure of HIV-related information under clause (*ii*) of sub-section (*1*) is not required where the disclosure is made—

(*a*) by a healthcare provider to another healthcare provider who is involved in the care, treatment or counselling of such person, when such disclosure is necessary to provide care or treatment to that person;

(*b*) by an order of a court that the disclosure of such information is necessary in the interest of justice for the determination of issues and in the matter before it;

(*c*) in suits or legal proceedings between persons, where the disclosure of such information is necessary in filing suits or legal proceedings or for instructing their counsel;

(*d*) as required under the provisions of section 9;

(*e*) if it relates to statistical or other information of a person that could not reasonably be expected to lead to the identification of that person; and

(*f*) to the officers of the Central Government or the State Government or State AIDS Control Society of the concerned State Government, as the case may be, for the purposes of monitoring, evaluation or supervision.

Disclosure of HIV-positive status to partner of HIV-positive person.

9. (*1*) No healthcare provider, except a physician or a counsellor, shall disclose the HIV-positive status of a person to his or her partner.

(*2*) A healthcare provider, who is a physician or counsellor, may disclose the HIV-positive status of a person under his direct care to his or her partner, if such healthcare provider—

(*a*) reasonably believes that the partner is at the significant risk of transmission of HIV from such person; and

(*b*) such HIV-positive person has been counselled to inform such partner; and

(*c*) is satisfied that the HIV-positive person will not inform such partner; and

(*d*) has informed the HIV-positive person of the intention to disclose the HIV-positive status to such partner:

Provided that disclosure under this sub-section to the partner shall be made in person after counselling:

Provided further that such healthcare provider shall have no obligation to identify or locate the partner of an HIV-positive person:

Provided also that such healthcare provider shall not inform the partner of a woman where there is a reasonable apprehension that such information may result in violence, abandonment or actions which may have a severe negative effect on the physical or mental health or safety of such woman, her children, her relatives or someone who is close to her.

(*3*) The healthcare provider under sub-section (*1*) shall not be liable for any criminal or civil action for any disclosure or non-disclosure of confidential HIV-related information made to a partner under this section.

Duty to prevent transmission of HIV.

10. Every person, who is HIV-positive and has been counselled in accordance with the guidelines issued or is aware of the nature of HIV and its transmission, shall take all reasonable precautions to prevent the transmission of HIV to other persons which may include adopting strategies for the reduction of risk or informing in advance his HIV status before any sexual contact with any person or with whom needles are shared with:

Provided that the provisions of this section shall not be applicable to prevent transmission through a sexual contact in the case of a woman, where there is a reasonable apprehension that such information may result in violence, abandonment or actions which may have a severe negative effect on the physical or mental health or safety of such woman, her children, her relatives or someone who is close to her.

CHAPTER V

OBLIGATION OF ESTABLISHMENTS

Confidentiality of data.

11. Every establishment keeping the records of HIV-related information of protected persons shall adopt data protection measures in accordance with the guidelines to ensure that such information is protected from disclosure.

Explanation.— For the purpose of this section, data protection measures shall include procedures for protecting information from disclosure, procedures for accessing information, provision for security systems to protect the information stored in any form and mechanisms to ensure accountability and liability of persons in the establishment.

12. The Central Government shall notify model HIV and AIDS policy for establishments, in such manner, as may be prescribed. HIV and AIDS policy for establishments.

CHAPTER VI

ANTI-RETROVIRAL THERAPY AND OPPORTUNISTIC INFECTION MANAGEMENT FOR PEOPLE LIVING WITH HIV

13. The Central Government and every State Government, as the case may be, shall take all such measures as it deems necessary and expedient for the prevention of spread of HIV or AIDS, in accordance with the guidelines. Central Government and State Government to take measures.

14. (*1*) The measures to be taken by the Central Government or the State Government under section 13 shall include the measures for providing, as far as possible, diagnostic facilities relating to HIV or AIDS, Anti-retroviral Therapy and Opportunistic Infection Management to people living with HIV or AIDS. Anti-retroviral Therapy and Opportunistic Infection Management by Central Government and State Government.

(*2*) The Central Government shall issue necessary guidelines in respect of protocols for HIV and AIDS relating to diagnostic facilities, Anti-retroviral Therapy and Opportunistic Infection Management which shall be applicable to all persons and shall ensure their wide dissemination.

CHAPTER VII

WELFARE MEASURES BY THE CENTRAL GOVERNMENT AND STATE GOVERNMENT

15. (*1*) The Central Government and every State Government shall take measures to facilitate better access to welfare schemes to persons infected or affected by HIV or AIDS. Welfare measures by Central Government and State Government.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Central Government and State Governments shall frame schemes to address the needs of all protected persons.

16. (*1*) The Central Government or the State Government, as the case may be, shall take appropriate steps to protect the property of children affected by HIV or AIDS for the protection of property of child affected by HIV or AIDS. Protection of property of children affected by HIV or AIDS.

(*2*) The parents or guardians of children affected by HIV and AIDS, or any person acting for protecting their interest, or a child affected by HIV and AIDS may approach the Child Welfare Committee for the safe keeping and deposit of documents related to the property rights of such child or to make complaints relating to such child being dispossessed or actual dispossession or trespass into such child's house.

Explanation.—For the purpose of this section, "Child Welfare Committee" means a Committee set-up under section 29 of the Juvenile Justice (Care and Protection of Children) Act, 2000. 56 of 2000.

17. The Central Government and the State Government shall formulate HIV and AIDS related information, education and communication programmes which are age-appropriate, gender-sensitive, non-stigmatising and non-discriminatory. Promotion of HIV and AIDS related information, education and communication programmes.

18. (*1*) The Central Government shall lay down guidelines for care, support and treatment of children infected with HIV or AIDS. Women and children infected with HIV or AIDS.

(*2*) Without prejudice to the generality of the provisions of sub-section (*1*) and notwithstanding anything contained in any other law for the time being in force, the Central Government, or the State Government as the case may be, shall take measures to counsel and provide information regarding the outcome of pregnancy and HIV-related treatment to the HIV infected women.

(*3*) No HIV positive woman, who is pregnant, shall be subjected to sterilisation or abortion without obtaining her informed consent.

CHAPTER VIII

SAFE WORKING ENVIRONMENT

Obligation of establishments to provide safe working environment.

19. Every establishment, engaged in the healthcare services and every such other establishment where there is a significant risk of occupational exposure to HIV, shall, for the purpose of ensuring safe working environment,—

(*i*) provide, in accordance with the guidelines,—

(*a*) Universal Precautions to all persons working in such establishment who may be occupationally exposed to HIV; and

(*b*) training for the use of such Universal Precautions;

(*c*) Post Exposure Prophylaxis to all persons working in such establishment who may be occupationally exposed to HIV or AIDS; and

(*ii*) inform and educate all persons working in the establishment of the availability of Universal Precautions and Post Exposure Prophylaxis.

General responsibility of establishments.

20. (*1*) The provisions of this Chapter shall be applicable to all establishments consisting of one hundred or more persons, whether as an employee or officer or member or director or trustee or manager, as the case may be:

Provided that in the case of healthcare establishments, the provisions of this sub-section shall have the effect as if for the words "one hundred or more", the words "twenty or more" had been substituted.

(*2*) Every person, who is in charge of an establishment, referred to in sub-section (*1*), for the conduct of the activities of such establishment, shall ensure compliance of the provisions of this Act.

Grievance redressal mechanism.

21. Every establishment referred to in sub-section (*1*) of section 20 shall designate such person, as it deems fit, as the Complaints Officer who shall dispose of complaints of violations of the provisions of this Act in the establishment, in such manner and within such time as may be prescribed.

CHAPTER IX

PROMOTION OF STRATEGIES FOR REDUCTION OF RISK

Strategies for reduction of risk.

22. Notwithstanding anything contained in any other law for the time being in force any strategy or mechanism or technique adopted or implemented for reducing the risk of HIV transmission, or any act pursuant thereto, as carried out by persons, establishments or organisations in the manner as may be specified in the guidelines issued by the Central Government shall not be restricted or prohibited in any manner, and shall not amount to a criminal offence or attract civil liability.

Explanation.—For the purpose of this section, strategies for reducing risk of HIV transmission means promoting actions or practices that minimise a person's risk of exposure to HIV or mitigate the adverse impacts related to HIV or AIDS including—

(*i*) the provisions of information, education and counselling services relating to prevention of HIV and safe practices;

(*ii*) the provisions and use of safer sex tools, including condoms;

(*iii*) drug substitution and drug maintenance; and

(*iv*) provision of comprehensive injection safety requirements.

Illustrations

(*a*) A supplies condoms to B who is a sex worker or to C, who is a client of B. Neither A nor B nor C can be held criminally or civilly liable for such actions or be prohibited, impeded, restricted or prevented from implementing or using the strategy.

(*b*) M carries on an intervention project on HIV or AIDS and sexual health information, education and counselling for men, who have sex with men, provides safer sex information, material and condoms to N, who has sex with other men. Neither M nor N can be held criminally or civilly liable for such actions or be prohibited, impeded, restricted or prevented from implementing or using the intervention.

(*c*) X, who undertakes an intervention providing registered needle exchange programme services to injecting drug users, supplies a clean needle to Y, an injecting drug user who exchanges the same for a used needle. Neither X nor Y can be held criminally or civilly liable for such actions or be prohibited, impeded, restricted or prevented from implementing or using the intervention.

(*d*) D, who carries on an intervention programme providing Opioid Substitution Treatment (OST), administers OST to E, an injecting drug user. Neither D nor E can be held criminally or civilly liable for such actions or be prohibited, impeded, restricted or prevented from implementing or using the intervention.

CHAPTER X

APPOINTMENT OF OMBUDSMAN

Appointment of Ombudsman.

23. (*1*) Every State Government shall appoint one or more Ombudsman,—

(*a*) possessing such qualification and experience as may be prescribed, or

(*b*) designate any of its officers not below such rank, as may be prescribed, by that Government,

to exercise such powers and discharge such functions, as may be conferred on Ombudsman under this Act.

(*2*) The terms and condition of the service of an Ombudsman appointed under clause (*a*) of sub-section (*1*) shall be such as may be prescribed by the State Government.

(*3*)The Ombudsman appointed under sub-section (*1*) shall have such jurisdiction in respect of such area or areas as the State Government may, by notification, specify.

Powers of Ombudsman.

24. (*1*) The Ombudsman shall, upon a complaint made by any person, inquire into the violations of the provisions of this Act, in relation to acts of discrimination mentioned in section 3 and providing of healthcare services by any person, in such manner as may be prescribed by the State Government.

(*2*) The Ombudsman may require any person to furnish information on such points or matters, as he considers necessary, for inquiring into the matter and any person so required shall be deemed to be legally bound to furnish such information and failure to do so shall be punishable under sections 176 and 177 of the Indian Penal Code.

45 of 1860.

(*3*) The Ombudsman shall maintain records in such manner as may be prescribed by the State Government.

Procedure of complaint.

25. The complaints may be made to the Ombudsman under sub-section (*1*) of section 24 in such manner, as may be prescribed, by the State Government.

Orders of Ombudsman.

26. The Ombudsman shall, within a period of thirty days of the receipt of the complaint under sub-section (*1*) of section 24, and after giving an opportunity of being heard to the parties, pass such order, as he deems fit, giving reasons therefor**:**

Provided that in cases of medical emergency of HIV positive persons, the Ombudsman shall pass such order as soon as possible, preferably within twenty-four hours of the receipt of the complaint.

Authorities to assist Ombudsman.

27. All authorities including the civil authorities functioning in the area for which the Ombudsman has been appointed under section 23 shall assist in execution of orders passed by the Ombudsman**.**

Report to State Government.

28. The Ombudsman shall, after every six months, report to the State Government, the number and nature of complaints received, the action taken and orders passed in relation to such complaints and such report shall be published on the website of the Ombudsman and a copy thereof be forwarded to the Central Government.

CHAPTER XI

SPECIAL PROVISIONS

Right of residence.

29. Every protected person shall have the right to reside in the shared household, the right not to be excluded from the shared household or any part of it and the right to enjoy and use the facilities of such shared household in a non-discriminatory manner.

Explanation.—For the purposes of this section, the expression "shared household" means a household where a person lives or at any stage has lived in a domestic relationship either singly or along with another person and includes such a household, whether owned or tenanted, either jointly or singly, any such household in respect of which either person or both, jointly or singly, have any right, title, interest or equity or a household which may belong to a joint family of which either person is a member, irrespective of whether either person has any right, title or interest in the shared household.

HIV-related information, education and communication before marriage.

30. The Central Government shall specify guidelines for the provision of HIV-related information, education and communication before marriage and ensure their wide dissemination.

Persons in care or custody of State.

31. (*1*) Every person who is in the care or custody of the State shall have the right to HIV prevention, counselling, testing and treatment services in accordance with the guidelines issued in this regard.

(*2*) For the purposes of this section, persons in the care or custody of the State include persons convicted of a crime and serving a sentence, persons awaiting trial, person detained under preventive detention laws, persons under the care or custody of the State under the Juvenile Justice (Care and Protection of Children) Act, 2000, the Immoral Traffic (Prevention) Act, 1956 or any other law and persons in the care or custody of State run homes and shelters. 56 of 2000. 104 of 1956.

Recognition of guardianship of older sibling.

32. Notwithstanding anything contained in any law for the time being in force, a person below the age of eighteen but not below twelve years, who has sufficient maturity of understanding and who is managing the affairs of his family affected by HIV and AIDS, shall be competent to act as guardian of other sibling below the age of eighteen years for the following purposes, namely:—

(*a*) admission to educational establishments;

(*b*) care and protection;

(*c*) treatment;

(*d*) operating bank accounts;

(*e*) managing property; and

(*f*) any other purpose that may be required to discharge his duties as a guardian.

Explanation.—For the purposes of this section, a family affected by HIV or AIDS means where both parents and the legal guardian is incapacitated due to HIV-related illness or AIDS or the legal guardian and parents are unable to discharge their duties in relation to such children.

Living wills for guardianship and testamentary guardianship.

33. (*1*) Notwithstanding anything contained in any law for the time being in force, a parent or legal guardian of a child affected by HIV and AIDS may appoint, by making a will, an adult person who is a relative or friend, or a person below the age of eighteen years who is the managing member of the family affected by HIV and AIDS, as referred to in section 33, to act as legal guardian immediately upon incapacity or death of such parent or legal guardian, as the case may be.

(*2*) Nothing in this section shall divest a parent or legal guardian of their rights, and the guardianship referred to in sub-section (*1*) shall cease to operate upon by the parent or legal guardian regaining their capacity.

(*3*) Any parent or legal guardian of children affected by HIV and AIDS may make a will appointing a guardian for care and protection of such children and for the property that such children would inherit or which is bequeathed through the will made by such parent or legal guardian.

CHAPTER XII

SPECIAL PROCEDURE IN COURT

Suppression of identity.

34. (*1*) In any legal proceeding in which a protected person is a party or such person is an applicant, the court, on an application by such person or any other person on his behalf may pass, in the interest of justice, any or all of the following orders, namely:—

(*a*) that the proceeding or any part thereof be conducted by suppressing the identity of the applicant by substituting the name of such person with a pseudonym in the records of the proceedings in such manner as may be prescribed;

(*b*) that the proceeding or any part thereof may be conducted *in camera*;

(*c*) restraining any person from publishing in any manner any matter leading to the disclosure of the name or status or identity of the applicant**.**

(*2*) In any legal proceeding concerning or relating to an HIV-positive person, the court shall take up and dispose of the proceeding on priority basis.

Maintenance applications.

35. In any maintenance application filed by or on behalf of a protected person under any law for the time being in force, the court shall consider the application for interim maintenance and, in passing any order of maintenance, shall take into account the medical expenses and other HIV-related costs that may be incurred by the applicant.

Sentencing.

36. In passing any order relating to sentencing, the HIV-positive status of the persons in respect of whom such an order is passed shall be a relevant factor to be considered by the court to determine the custodial place where such person shall be transferred to, based on the availability of proper healthcare services at such place.

CHAPTER XIII

PENALTIES

Penalty for contravention.

37. Notwithstanding any action that may be taken under any other law for the time being in force, whoever contravenes the provisions of section 4 shall be punished with imprisonment for a term which shall not be less than three months but which may extend to two years and with fine which may extend to one lakh rupees, or with both.

Penalty for failure to comply with orders of Ombudsman.

38. Whoever fails to comply with any order given by an Ombudsman within such time as may be specified in such order, under section 26, shall be liable to pay a fine which may extend to ten thousand rupees and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day during which such failure continues.

Penalty for breach of confidentiality in legal proceedings.

39. Notwithstanding any action that may be taken under any law for the time being in force, whoever discloses information regarding the HIV status of a protected person which is obtained by him in the course of, or in relation to, any proceedings before any court, shall

be punishable with fine which may extend to one lakh rupees unless such disclosure is pursuant to any order or direction of a court.

Prohibition of victimisation.

40. No person shall subject any other person or persons to any detriment on the ground that such person or persons have taken any of the following actions, namely:—

(*a*) made complaint under this Act;

(*b*) brought proceedings under this Act against any person;

(*c*) furnished any information or produced any document to a person exercising or performing any power or function under this Act; or

(*d*) appeared as a witness in a proceeding under this Act.

Court to try offences.

41. No court other than the court of a Judicial Magistrate First Class shall take cognizance of an offence under this Act.

Offences to be cognizable and bailable.

42. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, offences under this Act shall be cognizable and bailable. 2 of 1974.

CHAPTER XIV

MISCELLANEOUS

Act to have overriding effect.

43. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time in force or in any instrument having effect by virtue of any law other than this Act.

Protection of action taken in good faith.

44. No suit, prosecution or other legal proceeding shall lie against the Central Government, the State Government, the Central Government or AIDS Control Society of the State Government Ombudsman or any member thereof or any officer or other employee or person acting under the direction either of the Central Government, the State Government, the Central Government, or Ombudsman in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules or guidelines made thereunder or in respect of the publication by or under the authority of the Central Government, the State Government, the Central Government or AIDS Control Society of the State Government Ombudsman.

Delegation of powers.

45. The Central Government and State Government, as the case may be, may, by general or special order, direct that any power exercisable by it under this Act shall, in such circumstances and under such conditions, if any, as may be mentioned in the order, be exercisable also by an officer subordinate to that Government or the local authority.

Guidelines.

46. (*1*) The Central Government may, by notification, make guidelines consistent with this Act and any rules thereunder, generally to carry out the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such guidelines may provide for all or any of the following matters, namely:—

(*a*) information relating to risk and benefits or alternatives to the proposed intervention under clause (*n*) of section 2;

(*b*) the manner of obtaining the informed consent under sub-section (*1*) and the manner of pre test and post test counselling under sub-section (*2*) of section 5;

(*c*) guidelines to be followed by a testing or diagnostic centre or pathology laboratory or blood bank for HIV test under section 7;

(*d*) the manner of taking data protection measures under section 11;

(*e*) guidelines in respect of protocols for HIV/AIDS relating to Anti-retroviral Therapy and Opportunistic Infections Management under sub-section (*2*) of section 14;

(*f*) care, support and treatment of children infected with HIV or AIDS under sub-section (*1*) of section 18;

(*g*) guidelines for Universal Precautions and post exposure prophylaxis under section 19;

(*h*) manner of carrying out the strategy or mechanism or technique for reduction of risk of HIV transmission under section 22;

(*i*) manner of implementation of a drugs substitution, drug maintenance and needle and syringe exchange programme under section 22;

(*j*) provision of HIV-related information, education and communication before marriage under section 30;

(*k*) manner of HIV or AIDS prevention, counselling, testing and treatment of persons in custody under section 31;

(*l*) any other matter which ought to be specified in guidelines for the purposes of this Act.

Power of Central Government to make rules.

47. (*1*) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing provision, such rules may provide for all or any of the following matters, namely:—

(*a*) manner of notifying model HIV or AIDS policy for the establishments under section 12;

(*b*) any other matter which may be or ought to be prescribed by the Central Government.

Laying of rules before both Houses of Parliament.

48. Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of State Government to make rules and laying thereof.

49. (*1*) The State Government may, by notification, make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) measures to provide diagnostic facilities relating to HIV or AIDS, Anti-retroviral Therapy and Opportunistic Infection Management to people living with HIV or AIDS and for the prevention of spread of HIV or AIDS in accordance with the guidelines under section 14;

(*b*) qualification and experience for the appointment of a person as an Ombudsman under clause (*a*) or rank of officer of the State Government to be designated as Ombudsman under clause (*b*) of sub-section (*1*) of section 23;

(*c*) terms and conditions of services of Ombudsman under sub-section (*2*) of section 23;

(*d*) manner of inquiring into complaints by the Ombudsman under sub-section (*1*) and maintaining of records by him under sub-section (*3*) of section 24;

(*e*) manner of making the complaints to the Ombudsman under section 25; and

(*f*) manner of recording pseudonym in legal proceedings under clause (*a*) of sub-section (*1*) of section 34.

(*3*) Every rule made by the State Government under this Act shall be laid, as soon as may be, after it is made before the Legislature of that State.

Power to remove difficulties.

50. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of the period of two years from the date of commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

———

DR. G. NARAYANA RAJU
Secretary to the Govt. of India.

———

CORRIGENDUM

THE GOODS AND SERVICES TAX (COMPENSATION TO STATES) ACT, 2017

NO. 15 OF 2017

In the Goods and Services Tax (Compensation to States) Act, 2017 (15 of 2017) published in the Gazette of India, Extraordinary, Part II, Section I, dated 12th April, 2017, issue No. 15, at page 3, in line 20, *for* "onstitution", *read* "Constitution".

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भारत का राजपत्र
The Gazette of India

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 1*st May,* 2017/*Vaisakha* 11, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 28th April, 2017, and is hereby published for general information:—

THE CONSTITUTION (SCHEDULED CASTES) ORDERS (AMENDMENT) ACT, 2017

NO. 17 OF 2017

[28*th April,* 2017.]

An Act further to amend the Constitution (Scheduled Castes) Order, 1950 to modify the list of Scheduled Castes in the State of Odisha and to amend the Constitution (Pondicherry) Scheduled Castes Order, 1964.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Scheduled Castes) Orders (Amendment) Act, 2017.

Amendment of Constitution (Scheduled Castes) Order, 1950.

C.O. 19.

2. In the Schedule to the Constitution (Scheduled Castes) Order, 1950, in PART XIII.—*Odisha*, for entry 79, the following entry shall be substituted, namely:—

"79. Sabakhia, Sualgiri, Swalgiri.".

Amendment of Constitution (Pondicherry) Scheduled Castes Order, 1964.

C.O. 68.

3. In the Constitution (Pondicherry) Scheduled Castes Order, 1964, for the word "Pondicherry" at both the places where it occurs, the word "Puducherry" shall be substituted.

———

DR. G. NARAYANA RAJU
Secretary to the Govt. of India.

CORRIGENDA

In the FINANCE ACT, 2017 (7 of 2017) as published in the Gazette of India, Extraordinary, Part II, Section I, Issue No. 7, dated the 31st March, 2017,—

Page No.	Col. No.	Line(s) No.	*Fir*	*Read*
64	-	2	"section 47"	"section 117"
64	-	14	"Armed Force"	"Armed Forces"
66	-	8	"an vest"	"and vest"
66	-	47	"each Houses"	"each House"
91	3	-	"The Armed Forces"	"The Armed Forces Tribunal"

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 5*th May,* 2017/*Vaisakha* 15, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 04th April, 2017, and is hereby published for general information:—

THE TAXATION LAWS (AMENDMENT) ACT, 2017

NO. 18 OF 2017

[4*th May,* 2017.]

An Act further to amend the Customs Act, 1962, the Customs Tariff Act, 1975, the Central Excise Act, 1944, the Central Sales Tax Act, 1956, the Finance Act, 2001 and the Finance Act, 2005 and to repeal certain enactments.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commence-ment.

1. (*1*) This Act may be called the Taxation Laws (Amendment) Act, 2017.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

CHAPTER I
CUSTOMS

Amendment of section 2.

52 of 1962.

2. In the Customs Act, 1962 (hereinafter referred to as the Customs Act), in section 2, in clause (*11*), after the words "the area of a Customs station", the words "or a warehouse" shall be inserted.

Insertion of new sections 108A and 108B.

3. In the Customs Act, after section 108, the following sections shall be inserted, namely:—

Obligation to furnish information.

"108A. (*1*) Any person, being—

(*a*) a local authority or other public body or association; or

(*b*) any authority of the State Government responsible for the collection of value added tax or sales tax or any other tax relating to the goods or services; or

(*c*) an income-tax authority appointed under the provisions of the Income-tax Act, 1961; 43 of 1961.

(*d*) a Banking company within the meaning of clause (*a*) of section 45A of the Reserve Bank of India Act, 1934; or 2 of 1934.

(*e*) a co-operative bank within the meaning of clause (*dd*) of section 2 of the Deposit Insurance and Credit Guarantee Corporation Act,1961; or 47 of 1961.

(*f*) a financial institution within the meaning of clause (*c*), or a non-banking financial company within the meaning of clause (*f*), of section 45-I of the Reserve Bank of India Act,1934; or 2 of 1934.

(*g*) a State Electricity Board; or an electricity distribution or transmission licensee under the Electricity Act, 2003, or any other entity entrusted, as the case may be, with such functions by the Central Government or the State Government; or 36 of 2003.

(*h*) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908; or 16 of 1908.

(*i*) a Registrar within the meaning of the Companies Act, 2013; or 18 of 2013.

(*j*) the registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988; or 59 of 1988.

(*k*) the Collector referred to in clause (*c*) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; or 30 of 2013.

(*l*) the recognised stock exchange referred to in clause (*f*) of section 2 of the Securities Contracts (Regulation) Act, 1956; or 42 of 1956.

(*m*) a depository referred to in clause (*e*) of sub-section (*1*) of section 2 of the Depositories Act, 1996; or 22 of 1996.

(*n*) the Post Master General within the meaning of clause (*j*) of section 2 of the Indian Post Office Act, 1898; or 6 of 1898.

(*o*) the Director General of Foreign Trade within the meaning of clause (*d*) of section 2 of the Foreign Trade (Development and Regulation) Act,1992; or 22 of 1992.

(*p*) the General Manager of a Zonal Railway within the meaning of clause (*18*) of section 2 of the Railways Act,1989; or 24 of 1989.

(*q*) an officer of the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934, 2 of 1934.

who is responsible for maintaining record of registration or statement of accounts or holding any other information under any of the Acts specified above or under any other law for the time being in force, which is considered relevant for the purposes of this Act, shall furnish such information to the proper officer in such manner as may be prescribed by rules made under this Act.

(*2*) Where the proper officer considers that the information furnished under sub-section (*1*) is defective, he may intimate the defect to the person who has furnished

such information and give him an opportunity of rectifying the defect within a period of seven days from the date of such intimation or within such further period which, on an application made in this behalf, the proper officer may allow and if the defect is not rectified within the said period of seven days or, further period, as the case may be, so allowed, then, notwithstanding anything contained in any other provision of this Act, such information shall be deemed as not furnished and the provisions of this Act shall apply.

(*3*) Where a person who is required to furnish information has not furnished the same within the time specified in sub-section (*1*) or sub-section (*2*), the proper officer may serve upon him a notice requiring him to furnish such information within a period not exceeding thirty days from the date of service of the notice and such person shall furnish such information.

Penalty for failure to furnish information return.

108B. Where the person who is required to furnish information under section 108A fails to do so within the period specified in the notice issued under sub-section (*3*) thereof, the proper officer may direct such person to pay, by way of penalty, a sum of one hundred rupees for each day of the period during which the failure to furnish such information continues.".

CHAPTER II

CUSTOMS TARIFF

51 of 1975.

Amendment of section 3.

4. In the Customs Tariff Act, 1975, in section 3,—

(*a*) in sub-section (*2*),—

(*i*) in clause (*ii*), for item (*a*), the following item shall be substituted, namely:—

"(*a*) the duty referred to in sub-sections (*1*), (*3*), (*5*), (*7*) and (*9*);";

(*ii*) in the proviso, in sub-clause (*b*), item (*ii*) shall be omitted;

(*b*) in sub-section (*6*), in clause (*ii*), for item (*a*), the following item shall be substituted, namely:—

"(*a*) the duty referred to in sub-sections (*5*), (*7*) and (*9*);";

(*c*) for sub-sections (*7*) and (*8*), the following sub-sections shall be substituted, namely:—

"(*7*) Any article which is imported into India shall, in addition, be liable to integrated tax at such rate, not exceeding forty per cent. as is leviable under section 5 of the Integrated Goods and Services Tax Act, 2017 on a like article on its supply in India, on the value of the imported article as determined under sub-section (*8*).

(*8*) For the purposes of calculating the integrated tax under sub-section (*7*) on any imported article where such tax is leviable at any percentage of its value, the value of the imported article shall, notwithstanding anything contained in section 14 of the Customs Act, 1962, be the aggregate of—

52 of 1962.

(*a*) the value of the imported article determined under sub-section (*1*) of section 14 of the Customs Act, 1962 or the tariff value of such article fixed under sub-section (*2*) of that section, as the case may be; and

52 of 1962.

(*b*) any duty of customs chargeable on that article under section 12 of the Customs Act, 1962, and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, but does not include the tax referred to in sub-section (*7*) or the cess referred to in sub-section (*9*).

52 of 1962.

(*9*) Any article which is imported into India shall, in addition, be liable to the goods and services tax compensation cess at such rate, as is leviable under section 8 of the Goods and Services Tax (Compensation to States) Cess Act, 2017 on a like article on its supply in India, on the value of the imported article as determined under sub-section (*10*).

(*10*) For the purposes of calculating the goods and services tax compensation cess under sub-section (*9*) on any imported article where such cess is leviable at any percentage of its value, the value of the imported article shall, notwithstanding anything contained in section 14 of the Customs Act, 1962, be the aggregate of— 52 of 1962.

(*a*) the value of the imported article determined under sub-section (*1*) of section 14 of the Customs Act, 1962 or the tariff value of such article fixed under sub-section (*2*) of that section, as the case may be; and

(*b*) any duty of customs chargeable on that article under section 12 of the Customs Act, 1962, and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, but does not include the tax referred to in sub-section (*7*) or the cess referred to in sub-section (*9*).

(*11*) The duty or tax or cess, as the case may be, chargeable under this section shall be in addition to any other duty or tax or cess, as the case may be, imposed under this Act or under any other law for the time being in force.

(*12*) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to drawbacks, refunds and exemption from duties shall, so far as may be, apply to the duty or tax or cess, as the case may be, chargeable under this section as they apply in relation to the duties leviable under that Act.". 52 of 1962.

CHAPTER III

CENTRAL EXCISE

Amendment of section 2.

5. In the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), in section 2,— 1 of 1944.

(*a*) in clause (*d*), for the words and figures "the First Schedule and the Second Schedule to the Central Excise Tariff Act, 1985", the words "the Fourth Schedule" shall be substituted; 5 of 1986.

(*b*) in clause (*e*) the words "other than salt" shall be omitted;

(*c*) in clause (*f*), in sub-clause (*ii*), for the words and figures "the First Schedule to the Central Excise Tariff Act, 1985", the words "the Fourth Schedule" shall be substituted. 5 of 1986.

Substitution of new section for section 3.

6. In the Central Excise Act, for section 3, the following section shall be substituted, namely:—

Duty specified in the Fourth Schedule to be levied.

"3. (*1*) There shall be levied and collected in such manner as may be prescribed a duty of excise to be called the Central Value Added Tax (CENVAT) on all excisable goods (excluding goods produced or manufactured in special economic zones) which are produced or manufactured in India as, and at the rates, set forth in the Fourth Schedule:

Provided that the duty of excise which shall be levied and collected on any excisable goods which are produced or manufactured by a hundred per cent. export-oriented undertaking and brought to any other place in India, shall be an amount equal to the aggregate of the duties of customs which would be leviable under the Customs

52 of 1962. Act, 1962 or any other law for the time being in force, on like goods produced or manufactured outside India if imported into India, and where the said duties of customs are chargeable by reference to their value, the value of such excisable goods shall, notwithstanding anything contained in any other provision of this Act, be determined in accordance with the provisions of the Customs Act, 1962 and the Customs Tariff 51 of 1975. Act, 1975.

Explanation 1.—Where in respect of any such like goods, any duty of customs leviable for the time being in force is leviable at different rates, then, such duty shall, for the purposes of this proviso, be deemed to be leviable at the highest of those rates.

Explanation 2.—For the purposes of this sub-section,—

(*i*) "hundred per cent. export-oriented undertaking" means an undertaking which has been approved as a hundred per cent. export-oriented undertaking by the Board appointed in this behalf by the Central Government in exercise of the powers conferred by section 14 of the Industries (Development and Regulation) 65 of 1951. Act, 1951, and the rules made under that Act;

(*ii*) "Special Economic Zone" shall have the meaning assigned to it in 28 of 2005. clause (*za*) of section 2 of the Special Economic Zones Act, 2005.

(*2*) The provisions of sub-section (*1*) shall apply in respect of all excisable goods which are produced or manufactured in India by or on behalf of the Government, as they apply in respect of goods which are not produced or manufactured by the Government.

(*3*) The Central Government may, by notification in the Official Gazette, fix, for the purposes of levying the said duty, tariff values of any articles enumerated, either specifically or under general headings, in the Fourth Schedule as chargeable with duty *ad valorem* and may alter any tariff values for the time being in force.

(*4*) The Central Government may fix different tariff values—

(*a*) for different classes or descriptions of the same excisable goods; or

(*b*) for excisable goods of the same class or description—

(*i*) produced or manufactured by different classes of producers or manufacturers; or

(*ii*) sold to different classes of buyers:

Provided that in fixing different tariff values in respect of excisable goods falling under sub-clause (*i*) or sub-clause (*ii*), regard shall be had to the sale prices charged by the different classes of producers or manufacturers or, as the case may be, the normal practice of the wholesale trade in such goods.".

Amendment of section 3A.

7. In the Central Excise Act, in section 3A, in *Explanation* 1, for the words and figures, 5 of 1986. "First Schedule and the Second Schedule to the Central Excise Tariff Act, 1985", the words "Fourth Schedule" shall be substituted.

Insertion of new sections 3B and 3C. Emergency power of Central Government to increase duty of excise.

8. In the Central Excise Act, after section 3A, the following sections shall be inserted, namely:—

"3B. (*1*) Where, in respect of any goods, the Central Government is satisfied that the duty leviable thereon under section 3 should be increased and that circumstances exist which render it necessary to take immediate action, the Central Government may, by notification in the Official Gazette, amend the Fourth Schedule to substitute the rate of duty specified therein in respect of such goods in the following manner, namely:—

(*a*) in a case where the rate of duty as specified in the Fourth Schedule as in force immediately before the issue of such notification is nil, a rate of duty not exceeding fifty per cent. *ad valorem* expressed in any form or method;

(*b*) in any other case, a rate of duty which shall not be more than twice the rate of duty specified in respect of such goods in the Fourth Schedule as in force immediately before the issue of the said notification:

Provided that the Central Government shall not issue any notification under this sub-section for substituting the rate of duty in respect of any goods as specified by an earlier notification issued under this sub-section by that Government before such earlier notification has been approved with or without modifications under sub-section (*2*).

Explanation.—For the purposes of this sub-section, the term "form or method", in relation to a rate of duty of excise, means the basis, including valuation, weight, number, length, area, volume or any other measure, on which the duty may be levied.

(*2*) Every notification under sub-section (*1*) shall be laid before each House of Parliament, if it is in session, as soon as may be after the issue of the notification, and, if it is not in session, within seven days of its re-assembly, and the Central Government shall seek the approval of Parliament to the notification by a resolution moved within a period of fifteen days beginning with the day on which the notification is so laid before the House of the People and if Parliament makes any modification in the notification or directs that the notification should cease to have effect, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, but without prejudice to the validity of anything previously done thereunder.

(*3*) Any notification issued under sub-section (*1*), including a notification approved or modified under sub-section (*2*), may be rescinded by the Central Government at any time by issuing notification in the Official Gazette.

Power of Central Government to amend Fourth Schedule.

3C. (*1*) Where the Central Government is satisfied that it is necessary so to do in the public interest, it may, by notification in the Official Gazette, amend the Fourth Schedule:

Provided that such amendment shall not alter or affect in any manner the rates specified in the Fourth Schedule at which the duties of excise shall be leviable on the goods specified therein.".

Amendment of section 38.

9. In the Central Excise Act, in section 38, after the word, figure and letter "section 3A", the word, figure and letter "section 3C" shall be inserted.

Insertion of a new section 38B.

10. In the Central Excise Act, after section 38A, the following section shall be inserted, namely:—

Savings of references to Chapter, heading, sub-heading and tariff item in Central Excise Tariff Act, 1985.

"38B. Notwithstanding the repeal of the Central Excise Tariff Act, 1985 by sub-section (*1*) of section 174 of the Central Goods and Services Tax Act, 2017, any reference to the Chapter, heading, sub-heading or tariff item, as the case may be, in the First Schedule to the said Act or in any rules or regulations made thereunder, or in any notification, circular, order or instruction issued thereunder, shall mean a reference to the Chapter, heading, sub-heading or tariff item, as the case may be, in the Fourth Schedule.". 5 of 1986.

Substitution of new Schedule for Third Schedule.

11. In the Central Excise Act, for the Third Schedule, the Schedule specified in the First Schedule shall be substituted.

Insertion of Fourth Schedule.

12. In the Central Excise Act, after the Third Schedule, the Schedule specified in the Second Schedule shall be inserted.

CHAPTER IV

CENTRAL SALES TAX

74 of 1956.

13. In the Central Sales Tax Act, 1956 (hereinafter referred to as the Central Sales Tax Act), in section 2,— Amendment of section 2.

(*a*) clause (*c*) shall be omitted;

(*b*) for clause (*d*), the following clause shall be substituted, namely:—

'(*d*) "goods" means—

(*i*) petroleum crude;

(*ii*) high speed diesel;

(*iii*) motor spirit (commonly known as petrol);

(*iv*) natural gas;

(*v*) aviation turbine fuel; and

(*vi*) alcoholic liquor for human consumption;'.

14. In the Central Sales Tax Act, section 14 shall be omitted. Omission of section 14.

15. In the Central Sales Tax Act, section 15 shall be omitted. Omission of section 15.

CHAPTER V

MISCELLANEOUS

16. In the Finance Act, 2001, in the Seventh Schedule,— Amendment of Seventh Schedule to Act 14 of 2001.

(*a*) except tariff items 2402 20 10, 2402 20 20, 2402 20 30, 2402 20 40, 2402 20 50, 2402 20 90, 2402 90 10, 2403 11 10, 2403 19 10, 2403 19 21, 2403 19 29, 2403 19 90, 2403 91 00, 2403 99 10, 2403 99 20, 2403 99 30, 2403 99 40, 2403 99 50, 2403 99 60, 2403 99 90 and 2709 00 00 and the entries relating thereto, all other heading, sub-heading, tariff items and entries relating thereto shall be omitted;

(*b*) for tariff item 2709 00 00 and the entries relating thereto, the following tariff item and entries shall be substituted, namely:—

(1)	(2)	(3)	(4)
"2709 20 00	Petroleum Crude	Kg.	Rs. 50 per tonne''.

17. In the Finance Act, 2005, in the Seventh Schedule, tariff item 2106 90 20 and the entries relating thereto shall be omitted. Amendment of Seventh Schedule to Act 18 of 2005.

18. (*1*) The enactments specified in the third column of the Third Schedule are hereby repealed to the extent specified in the fourth column thereof. Repeal and savings of certain enactments.

(*2*) Notwithstanding the repeal under sub-section (*1*), such repeal shall not—

(*a*) affect any other law in which the repealed enactment has been applied, incorporated or referred to;

(*b*) affect the validity, invalidity, effect or consequences of anything already done or suffered or any right, title, obligation or liability already acquired, accrued or incurred or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing under the repealed enactment;

(*c*) affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in or from any enactment hereby repealed;

(*d*) revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

(*2*) The mention of particular matters in sub-section (*1*) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeals. 10 of 1897.

Collection and payment of arrears of duties.

19. Notwithstanding the repeal of the enactments specified in the Third Schedule, the proceeds of duties levied under the said enactments immediately preceding the date appointed under sub-section (*2*) of section 1,—

(*i*) if collected by the collecting agencies but not paid into the Reserve Bank of India; or

(*ii*) if not collected by the collecting agencies,

shall be paid or as the case may be, collected and paid into the Reserve Bank of India for being credited to the Consolidated Fund of India.

THE FIRST SCHEDULE

(*See* section 11)

"THE THIRD SCHEDULE

[*See* section 2 (*f*) (*iii*)]

NOTES

1. In this Schedule, "heading", "sub-heading" and "tariff item" mean respectively, a heading, sub-heading and tariff item in the Fourth Schedule.

2. The rules for the interpretation, the Section, Chapter Notes and the General Explanatory Notes of the Fourth Schedule shall apply to the interpretation of this Schedule.

Sl.No.	Heading, Sub-heading or Tariff item	Description of goods
1.	2402 20 10 to 2402 20 90	All Goods
2.	2403 99 10, 2403 99 20, 2403 99 30	Chewing tobacco and preparations containing chewing tabacco
3.	2403 99 90	Pan masala containing tobacco".

THE SECOND SCHEDULE

(*See* section 12)

"THE FOURTH SCHEDULE

[*See* section 2 (*d*) and 2 (*f*) (*ii*)]

General Rules for the interpretation of this Schedule

Classification of goods in this Schedule shall be governed by the following principles:

1. The titles of Sections, Chapters and Sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Sections or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions.

2. Any reference in a heading—

(*a*) to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled;

(*b*) to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

3. When by application of clause (*b*) of rule 2 or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:—

(*a*) the heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods;

(*b*) mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to clause (*a*), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable;

(*c*) when goods cannot be classified by reference to clause (*a*) or clause (*b*), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

4. Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.

5. For legal purposes, the classification of goods in the sub-headings of a heading shall be determined according to the terms of those sub-headings and any related sub-heading Notes and, *mutatis mutandis*, to the above rules, on the understanding that only sub-headings at the same level are comparable. For the purposes of this rule, the relative Chapter Notes also apply, unless the context otherwise requires.

General Explanatory Notes

1. Where in column (2) of this Schedule, the description of an article or group of articles under a heading is preceded by "-", the said article or group of articles shall be taken to be a sub-classification of the article or group of articles covered by the said heading. Where, however, the description of an article or group of articles is preceded by "--", the said article or group of articles shall be taken to be a sub-classification of the immediately preceding description of the article or group of articles which has "-". Where the description of an article or group of articles is preceded by "---" or "----", the said article or group of articles shall be taken to be a sub-classification of the immediately preceding description of the article or group of articles which has "-" or "--".

2. The abbreviation "%" in column (4) of this Schedule, in relation to the rate of duty, indicates that the duty on the goods to which the entry relates shall be charged on the basis of the value of the goods fixed, defined or deemed to be, as the case may be, under or in sub-section (*2*), read with sub-section (*3*) of section 3 or section 4 or section 4A of the Central Excise Act, 1944, the duty being equal to such percentage of the value as is indicated in that column.

1 of 1944.

Additional Notes

In this Schedule,—

(*1*) The expression,—

(*a*) "heading", in respect of goods, means a description in list of tariff provisions accompanied by a four-digit number and includes all sub-headings of tariff items the first four-digits of which correspond to that number;

(*b*) "sub-heading", in respect of goods, means a description in the list of tariff provisions accompanied by a six-digit number and includes all tariff items the first six-digits of which correspond to that number;

(*c*) "tariff item" means a description of goods in the list of tariff provisions accompanying either eight-digit number and the rate of the duty of excise, or eight-digit number with blank in the column of the rate of duty;

(*2*) The list of tariff provisions is divided into Sections, Chapters and Sub-Chapters;

(*3*) In column (3), the standard unit of quantity is specified for each tariff item to facilitate the collection, comparison and analysis of trade statistics;

(*4*) "….." against any goods denotes that Central Excise duty under this Schedule is not leviable on such goods.

List of Abbreviations used

Abbreviations	For
1. kg.	Kilogram
2. Tu	Thousand in number

SECTION IV

TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES

NOTE

In this Section, the expression "unit container" means a container, whether large or small (for example, tin, can, box, jar, bottle, bag or carton, drum, barrel or canister) designed to hold a predetermined quantity or number.

Chapter 24

TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES

NOTES

1. In this Chapter, "brand name" means a brand name, whether registered or not, that is to say, a name or a mark, such as a symbol, monogram, label, signature invented words or any writing which is used in relation to a product, for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and some person using such name or mark with or without any indication of the identity of that person.

2. In relation to products of heading 2401or 2402 or 2403, labelling or relabelling of containers or repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to ''manufacture''.

3. In this Chapter, "Pan masala containing tobacco", commonly known as ''gutkha'' or by any other name, included in tariff item 2403 99 90, means any preparation containing betel-nuts and tobacco and any one or more of the following ingredients, namely:—

(*i*) lime; and

(*ii*) kattha(catechu),

whether or not containing any other ingredients, such ascardamom, copra and menthol.

SUB-HEADING NOTE

For the purposes of sub-heading 2403 11, the expression "water pipe tobacco" means tobacco intended for smoking in a water pipe and which consists of a mixture of tobacco and glycerol, whether or not containing aromatic oils and extracts, molasses or sugar, and whether or not flavoured with fruit. However, tobacco-free products intended for smoking in a water pipe are excluded from this sub-heading.

SUPPLEMENTRY NOTES

For the purposes of this Chapter:

(*1*) "tobacco" means any form of tobacco, whether cured or uncured and whether manufactured or not, and includes the leaf, stalks and stems of the tobacco plant, but does not include any part of a tobacco plant while still attached to the earth.

(*2*) "cut-tobacco" means the prepared or processed cut-to-size tobacco which is generally blended or moisturised to a desired extent for use in the manufacture of machine-rolled cigarettes.

(*3*) "smoking mixtures for pipes and cigarettes" of sub-heading 2403 10 does not cover " Gudaku".

Tariff item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
2401	**Unmanufactured Tobacco; Tobacco Refuse**		
2401 10	- *Tobacco, not stemmed or stripped* :		
2401 10 10	--- Flue cured virginia tobacco	kg.	64%
2401 10 20	--- Sun cured country (natu) tobacco	kg.	64%
2401 10 30	--- Sun cured virginia tobacco	kg.	64%
2401 10 40	--- Burley tobacco	kg.	64%

(1)		(2)	(3)	(4)
2401 10 50	---	Tobacco for manufacture of biris, not stemmed	kg.	64%
2401 10 60	---	Tobacco for manufacture of chewing tobacco	kg.	64%
2401 10 70	---	Tobacco for manufacture of cigar and cheroot	kg.	64%
2401 10 80	---	Tobacco for manufacture of hookah tobacco	kg.	64%
2401 10 90	---	Other	kg.	64%
2401 20	-	*Tobacco, partly or wholly stemmed or stripped* :		
2401 20 10	---	Flue cured virginia tobacco	kg.	64%
2401 20 20	---	Sun cured country (natu) tobacco	kg.	64%
2401 20 30	---	Sun cured virginia tobacco	kg.	64%
2401 20 40	---	Burley tobacco	kg.	64%
2401 20 50	---	Tobacco for manufacture of biris	kg.	64%
2401 20 60	---	Tobacco for manufacture of chewing tobacco	kg.	64%
2401 20 70	---	Tobacco for manufacture of cigar and cheroot	kg.	64%
2401 20 80	---	Tobacco for manufacture of hookah tobacco	kg.	64%
2401 20 90	---	Other	kg.	64%
2401 30 00	-	Tobacco refuse	kg.	50%
2402		**Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes**		
2402 10	-	*Cigars, cheroots and cigarillos, containing tobacco*:		
2402 10 10	---	Cigar and cheroots	Tu	12.5% or Rs. 4006 per thousand, whichever is higher
2402 10 20	---	Cigarillos	Tu	12.5% or Rs. 4006 per thousand, whichever is higher
2402 20	-	*Cigarettes, containing tobacco*:		
2402 20 10	---	Other than filter cigarettes, of length not exceeding 65 millimetres	Tu	Rs. 1280 per thousand
2402 20 20	---	Other than filter cigarettes, of length exceeding 65 millimetres but not exceeding 70 millimetres	Tu	Rs. 2335 per thousand
2402 20 30	---	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) not exceeding 65 millimetres	Tu	Rs. 1280 per thousand
2402 20 40	---	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres		

(1)	(2)	(3)	(4)
	or its actual length, whichever is more) exceeding 65 millimetres but not exceeding 70 millimetres	Tu	Rs. 1740 per thousand
2402 20 50	--- Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 70 millimetres but not exceeding 75 millimetres	Tu	Rs. 2335 per thousand
2402 20 90	--- Other	Tu	Rs. 3375 per thousand
2402 90	- *Other*:		
2402 90 10	--- Cigarettes of tobacco substitutes	Tu	Rs. 3375 per thousand
2402 90 20	--- Cigarillos of tobacco substitutes	Tu	12.5 % or Rs. 4006 per thousand whichever is higher
2402 90 90	--- Other	Tu	12.5% or Rs. 4006 per thousand whichever is higher
2403	**Other manufactured tobacco and manufactured tobacco substitutes; "Homogenised" or "Reconstituted" tobacco; Tobacco extracts and essences**		
	- *Smoking tobacco, whether or not containing tobacco substitute in any proportion;*		
2403 11	-- *Water pipe tobacco specified in Sub-heading Note to this Chapter:*		
2403 11 10	--- Hukkah or gudaku tobacco	kg.	60%
2403 11 90	--- Other	kg.	60%
2403 19	-- *Other*		
2403 19 10	--- Smoking mixtures for pipes and cigarettes	kg.	360%
	--- Biris:		
2403 19 21	---- Other than paper rolled biris, manufactured without the aid of machine	Tu	Rs. 12 per thousand
2403 19 29	---- Other	Tu	Rs. 80 per thousand
2403 19 90	--- Other	kg.	40%
	- *Other*:		
2403 91 00	-- "Homogenised" or "reconstituted" tobacco	kg.	60%
2403 99	-- *Other*:		
2403 99 10	--- Chewing tobacco	kg.	81%
2403 99 20	--- Preparations containing chewing tobacco	kg.	60%

(1)	(2)	(3)	(4)
2403 99 30	--- Jarda scented tobacco	kg.	81%
2403 99 40	--- Snuff	kg.	60%
2403 99 50	--- Preparations containing snuff	kg.	60%
2403 99 60	--- Tobacco extracts and essence	kg.	60%
2403 99 70	--- Cut-tobacco	kg.	Rs. 70 per kg.
2403 99 90	--- Other	kg.	81%

SECTION V

MINERAL PRODUCTS

CHAPTER 27

MINERAL FUELS, MINERAL OILS AND PRODUCTS OF THEIR DISTILLATION; BITUMINOUS SUBSTANCES; MINERAL WAXES

NOTES

1. References in heading 2710 to "petroleum oils and oils obtained from bituminous minerals" include not only petroleum oils and oils obtained from bituminous minerals, but also similar oils, as well as those consisting mainly of mixed unsaturated hydrocarbons, obtained by any process, provided that the weight of the non-aromatic constituents exceeds that of the aromatic constituents.

However, the references do not include liquid synthetic polyolefins of which less than 60% by volume distils at 300ºC, after conversion to 1,013 millibars when a reduced-pressure distillation method is used.

2. In relation to lubricating oils and lubricating preparations of heading 2710, labelling or relabelling of containers or repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture".

3. In relation to natural gas falling under heading 2711, the process of compression of natural gas (even if it does not involve liquefaction), for the purpose of marketing it as Compressed Natural Gas (CNG), for use as a fuel or for any other purpose, shall amount to "manufacture".

SUB-HEADING NOTE

For the purposes of sub-heading 2710 12, "light oils and preparations" are those of which 90% or more by volume (including losses) distil at 210ºC (ASTM D 86 method).

SUPPLEMENTARY NOTES

In this Chapter, the following expressions have the meanings hereby assigned to them:—

(*1*) "motor spirit" means any hydrocarbon oil (excluding crude mineral oil) which has its flash point below 25ºC and which either by itself or in admixture with any other substance, is suitable for use as fuel in spark ignition engines. "Special boiling point spirits (tariff items 2710 12 11, 2710 12 12 and 2710 12 13)" means light oils, as defined in sub-heading Note 4, not containing any anti-knock preparations, and with a difference of not more than 60ºC between the temperatures at which 5% and 90% by volume (including losses) distil;

(*2*) "natural gasoline liquid (NGL)" is a low-boiling liquid petroleum product extracted from Natural Gas;

(*3*) "aviation turbine fuel (ATF)" means any hydrocarbon oil conforming to the Indian Standards Specification of Bureau of Indian Standards IS : 1571:1992:2000;

(*4*) "high speed diesel (HSD)" means any hydrocarbon oil conforming to the Indian Standards Specification of Bureau of Indian Standards IS: 1460:2000;

(*5*) for the purposes of these additional notes, the tests prescribed have the meaning hereby assigned to them:—

(*a*) "Flash Point" shall be determined in accordance with the test prescribed in this behalf in the rules made under the Petroleum Act, 1934; 30 of 1934.

(*b*) "Smoke Point" shall be determined in the apparatus known as the Smoke Point Lamp in the manner indicated in the Indian Standards Institution Specification IS: 1448 (p. 31)-1967 for the time being in force;

(*c*) "Final Boiling Point" shall be determined in the manner indicated in the Indian Standards Institution Specification IS: 1448 (p.18)-1967 for the time being in force;

(*d*) "Carbon Residue" shall be determined in the apparatus known as Ramsbottom Carbon Residue Apparatus in the manner indicated in the Indian Standards Institution Specification IS: 1448 (p. 8)-1967 for the time being in force;

(*e*) "Colour Comparison Test" shall be done in the following manner, namely:—

(*i*) first prepare a five per cent. weight by volume solution of Potassium Iodine (analytical reagent quality) in distilled water;

(*ii*) to this, add Iodine (analytical reagent quality) in requisite amount to prepare an exactly 0.04 normal Iodine solution;

(*iii*) thereafter, compare the colour of the mineral oil under test with the Iodine solution so prepared.

Tariff item	Description of goods	Unit	Rate of Duty
(1)	(2)	(3)	(4)
2709	**Petroleum oils and oils obtained from bituminous minerals, crude.**	Kg.	…..
2709 10 00	- Petroleum oils and oils obtained from bituminous minerals	Kg.	…..
2709 20 00	- Petroleum crude		Nil
2710	**Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; waste oils**		
	- *Petroleum oils and oils obtained from bituminous minerals (other than crude) and preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations, other than those containing biodiesel and other than waste oil*		

(1)	(2)	(3)	(4)
2710 12	-- *Light oils and preparations*:		
	--- *Motor spirit (Commonly known as petrol)*:		
2710 12 11	---- Special boiling point spirits (other than benzene, toluol) with nominal boiling point range 55-115 °C	Kg.	14%+Rs. 15.00 per litre
2710 12 12	---- Special boiling point spirits (other than benzene, toluene and toluol) with nominal boiling point range 63-70 °C	Kg.	14%+Rs. 15.00 per litre
2710 12 13	---- Other Special boiling points spirits (other than benzene, benzol, toluene and toluol)	Kg.	14%+Rs. 15.00 per litre
2710 12 19	---- Other	Kg.	14%+Rs. 15.00 per litre
2710 12 20	--- Natural gasoline Liquid	Kg.	14%+Rs. 15.00 per litre
2710 12 90	--- Other	Kg.	14%+Rs. 15.00 per litre
2710 19	-- *Other*:		
2710 19 10	--- Superior Kerosene oil (SKO)	Kg.	…..
2710 19 20	--- Aviation turbine Fuel (ATF)	Kg.	14%
2710 19 30	--- High speed diesel (HSD)	Kg.	14%+Rs. 15.00 per litre
2710 19 40	--- Light Diesel oil (LDO)	Kg.	…..
2710 19 50	--- Fuel oil	Kg.	…..
2710 19 60	--- Base oil	Kg.	…..
2710 19 70	--- Jute batching oil and textile oil	Kg.	…..
2710 19 80	--- Lubricating oil	Kg.	…..
2710 19 90	--- Other	Kg.	…..
	- *Waste oil:*		…..
2710 20 00	Petroleum oils and oils obtained from bituminous minerals (other than crude) and preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oil obtained from bituminous minerals, these oils being the basic constituents of the preparations, containing biodiesel, other than waste oils	Kg.	…..
2710 91 00	– Containing Polychlorinated biphenyls (PCBs), polychlorinated terphenyls (PCTs) or polybrominated biphenyls (PBBs)	Kg.	…..
2710 99 00	-- Other	Kg.	…..
2711	**Petroleum gases and other gaseous hydrocarbons**		
	- *Liquefied:*		
2711 11 00	-- Natural gas	Kg.	14%

(1)		(2)	(3)	(4)
2711 12 00	–	Propane	Kg.	…..
2711 13 00	–	Butane	Kg.	…..
2711 14 00	–	Ethylene, propylene, butylene and butadiene	Kg.	…..
2711 19 00	–	Other	Kg.	…..
	-	*In gaseous state:*		
2711 21 00	–	Natural gas	Kg.	14%
2711 29 00	–	Other	Kg.	…..

THE THIRD SCHEDULE

(*See* section 15)

Year	No.	Short title of enactments	Extent of repeal
(1)	(2)	(3)	(4)
1947	24	The Rubber Act, 1947	Clause (*b*) of sub-section (*1*) of section 9 and section 12
1951	65	The Industries (Development and Regulation) Act, 1951	Section 9
1953	29	The Tea Act, 1953	Clause (*c*) of section 3, sections 25 and 26 and clause (*a*) of sub-section (*1*) of section 27
1974	28	The Coal Mines (Conservation and Development) Act, 1974	Sections 6, 7 and 8
1976	56	The Beedi Workers Welfare Cess Act, 1976	The Whole
1977	36	The Water (Prevention and Control of Pollution) Cess Act, 1977	The Whole
1982	3	The Sugar Cess Act, 1982	The Whole
1982	4	The Sugar Development Fund Act, 1982	Sub-section (*2*) of section 3
1983	28	The Jute Manufacturers Cess Act, 1983	The Whole
2004	23	The Finance (No. 2) Act, 2004	Section 93
2007	22	The Finance Act, 2007	Section 138
2010	14	The Finance Act, 2010	Chapter VII
2015	20	The Finance Act, 2015	Chapter VI
2016	28	The Finance Act, 2016	Chapters VI and VII

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DR. G. NARAYANA RAJU
Secretary to the Govt. of India.

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The Gazette of India

असाधारण
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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 5th August, 2017/*Shravana* 14, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 4th August, 2017 and is hereby published for general information:—

THE NATIONAL INSTITUTES OF TECHNOLOGY, SCIENCE EDUCATION AND RESEARCH (AMENDMENT) ACT, 2017

NO. 19 OF 2017

[4*th August,* 2017.]

An Act further to amend the National Institutes of Technology, Science Education and Research Act, 2007.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the National Institutes of Technology, Science Education and Research (Amendment) Act, 2017.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of Second Schedule to Act 29 of 2007.

2. In the Second Schedule to the National Institutes of Technology, Science Education and Research Act, 2007, after serial number 5 and the entries relating thereto, the following serial numbers and entries shall be inserted, namely:—

(1)	(2)	(3)
"6.	Indian Institute of Science Education and Research, Tirupati Society	Indian Institute of Science Education and Research, Tirupati.

(1)	(2)	(3)
7.	Indian Institute of Science Education and Research, Berhampur Society	Indian Institute of Science Education and Research, Berhampur.''.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 5*th August,* 2017/*Shravana* 14, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 4th August, 2017 and is hereby published for general information:—

THE FOOTWEAR DESIGN AND DEVELOPMENT INSTITUTE ACT, 2017

NO. 20 OF 2017

[*4th August,* 2017.]

An Act to establish and declare the Footwear Design and Development Institute as an institution of national importance for the promotion and development of quality and excellence in education, research and training in all disciplines relating to footwear and leather products design and development and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Footwear Design and Development Institute Act, 2017. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference to the commencement in any such provision of this Act shall be construed as a reference to the commencement of that provision.

Declaration of Footwear Design and Development Institute as an institution of national importance.

2. Whereas the objects of the institution known as the Footwear Design and Development Institute, are such as to make it the institution of national importance, it is hereby declared that the Footwear Design and Development Institute is an institution of national importance.

Definitions.

3. In this Act, unless the context otherwise requires,—

(*a*) "Chairperson" means the Chairperson of the Institute nominated under clause (*a*) of sub-section (*3*) of section 4;

(*b*) "design" means a rational, logical and sequential innovation process for the purposes of transferring culture to viable products and services in footwear and leather products, including fashion and retail thereof and for providing a competitive edge to products and services;

(*c*) "development" means the systematic use of scientific and technical knowledge to meet specific objective or requirements and includes an extension of the theoretical or practical aspects of concepts, design, discovery and invention including business thereof;

(*d*) "Executive Director" means the Executive Director of the Institute campus appointed under section 18;

(*e*) "Fund" means the Fund of the institute to be maintained under section 21;

(*f*) "Governing Council" means the Governing Council of the Institute constituted under sub-section (*3*) of section 4;

(*g*) "Institute" means the Footwear Design and Development Institute established under sub-section (*1*) of section 4;

(*h*) "Institute campus" means an Institute campus specified in the Schedule;

(*i*) "leather products" includes a product made of leather or any other material or combination thereof;

(*j*) "Managing Director" means the Managing Director of the Institute appointed under section 16;

(*k*) "Member" means a Member of the Governing Council and includes the Chairperson;

(*l*) "notification" means a notification published in the Official Gazette;

(*m*) "prescribed" means prescribed by rules made under this Act;

(*n*) "Schedule" means the Schedule appended to this Act;

(*o*) "Secretary" means the Secretary of the Institute appointed under section 17;

(*p*) "Senate" means the Senate of the Institute referred to in section 13;

(*q*) "Society" means the Footwear Design and Development Institute registered under the Societies Registration Act, 1860; 21 of 1860.

(*r*) "Statutes" and "Ordinances" mean respectively the Statutes and the Ordinances of the Institute made under this Act.

CHAPTER II

THE INSTITUTE

Establishment of Institute.

4. (*1*) On and from the date of commencement of this Act, the Footwear Design and Development Institute shall be established as a body corporate by the name aforesaid.

(*2*) The Institute shall have perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and shall, by that name, sue or be sued.

(*3*) The Institute shall consist of a Governing Council having the following Members, namely:—

(*a*) a Chairperson, who shall be an eminent academician, scientist, or industrialist from leather sector, to be nominated by the Central Government;

(*b*) the Managing Director, *ex officio*;

(*c*) the Joint Secretary in the Ministry or Department in the Government of India dealing with Footwear Design and Development Institute, *ex officio*;

(*d*) the Joint Secretary in the Ministry or Department in the Government of India dealing with the leather, retail or fashion sector, *ex officio*;

(*e*) the Director Finance of the Ministry or the Department in the Government of India dealing with Footwear Design and Development Institute, *ex officio*;

(*f*) a representative of Ministry or Department in the Government of India dealing with skill development and entrepreneurship, *ex officio*;

(*g*) four professionals or industrialists to represent the Council for Leather Exports, the Indian Leather Garments Association, the Indian Footwear Components Manufacturers Association, and the Confederation of Indian Industry National Committee on Leather, Footwear and Leather Products, to be nominated by the Central Government; and

(*h*) one person each from the National Institute of Fashion Technology, National Institute of Design, the Central Leather Research Institute, the Indian Institute of Technology and the Indian Institute of Management, to be nominated by the Central Government.

(*4*) The term of office of the Chairperson and other Members, other than *ex officio* Members thereof, shall be three years and they shall be entitled for such allowances as may be determined by the Central Government.

(*5*) The term of office of the Members nominated to fill a casual vacancy shall continue for the remainder of the term of the Member in whose place he has been nominated.

(*6*) The Governing Council shall meet at least two times in a year at such place and time and observe such rules of procedure in regard to the transaction of business at its meetings as may be determined by the Governing Council.

(*7*) Save as otherwise provided in this section, the term of office of an *ex officio* member shall continue as long as he holds the office by virtue of which he is a member.

Vesting of properties.

5. On and from the date of commencement of this Act, subject to the other provisions of this Act, all properties which had vested in the Society, immediately before the commencement of this Act, shall on and from such commencement, vest in the Institute.

Effect of incorporation of Institute.

6. On and from the date of commencement of this Act,—

(*a*) any reference to the Society in any contract or other instrument shall be deemed as a reference to the Institute;

(*b*) all the rights and liabilities of the Society shall be transferred to, and be the rights and liabilities of, the Institute;

(*c*) every person employed by the Society, immediately before the appointed day, shall hold office or service in the Institute by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held the same, if this Act had not been passed, and shall continue to be so, unless and until his employment is terminated or until such tenure, remuneration, terms and conditions are duly altered by the Statutes:

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the Institute in accordance with the terms of the contract with the employee or, if no provision is made therein in this behalf, on payment to him by the Institute of compensation equivalent to three months' remuneration in the case of permanent employee and one month's remuneration in the case of other employee;

(*d*) every person pursuing, before the date of commencement of this Act, any academic or research course in existing Institute campus, shall be deemed to have migrated and registered with the corresponding Institute campus on such commencement at the same level of study in the Institute campus from which such person migrated; and

(*e*) all suits and other legal proceedings instituted or which could have been instituted by or against the Society, immediately before the commencement of this Act shall be continued or instituted by or against the Institute.

Functions of Institute.

7. The functions of the Institute shall be—

(*i*) to nurture and promote quality and excellence in education and research in the areas of footwear and leather products design and development and allied fields thereof;

(*ii*) develop and conduct courses leading to graduate and post-graduate degrees, doctoral and post-doctoral courses and research in the areas of footwear and leather products design and development and allied fields thereof;

(*iii*) to hold examinations and grant degrees, diplomas, certificates, or any other qualification;

(*iv*) to institute fellowships, scholarships and confer awards, honorary degrees or other academic distinctions or titles;

(*v*) to co-operate, associate and collaborate with educational or other institutions, research organisations or bodies corporate in any part of the world having objects wholly or partly similar to those of the Institute by exchange of faculty members, students, staff and scholars and generally in such manner as may be conducive to their common objective;

(*vi*) to conduct courses for teachers, technologists and other professionals in the areas of footwear and leather products design and development and allied fields thereof;

(*vii*) to undertake research, survey, and studies and application thereof, for improved quality and design, testing, and international marketing;

(*viii*) to provide consultancy, testing, inspection, certification, project implementation and design support to the institutions and industries in any part of the world;

(*ix*) to develop an international centre for creation and transmission of information, with focus on educational, professional and industrial commitments;

(*x*) to conduct skill development programs and to provide technical assistance to artisans, craftsmen, manufacturers, designers and exporters;

(*xi*) to design, develop, amend, update curriculums of the academic programs and training materials as per the sector's requirement and change of technology;

(*xii*) to acquire any patent or license relating to such invention, improvement or design or standardisation marks whether for general or specific purposes;

(*xiii*) to establish, form and maintain museums, libraries and collections of literature and films, slides, photographs, prototypes and other information;

(*xiv*) to function as a National resource centre for curriculum development, training the trainers and support skill development in the leather sector overall;

(*xv*) to frame the Statutes and the Ordinances and to alter, modify or rescind the same; and

(*xvi*) to do all such things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Institute.

Powers of Governing Council.

8. (*1*) Subject to the provisions of this Act, the Governing Council, under overall control of the Central Government, shall be responsible for the general superintendence, direction and control of the affairs of the Institute and shall exercise all the powers not otherwise provided for by this Act, the Statutes and the Ordinances, and shall have the power to review the acts of the Senate.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Governing Council shall—

(*a*) take decisions on questions of policy relating to the administration and working of the Institute;

(*b*) institute academic and other posts and to make appointments thereto (except in the case of the Managing Director, Secretary and Executive Director);

(*c*) frame the Statutes and the Ordinances and to alter, modify or rescind the same;

(*d*) consider and pass resolutions on the annual report, the annual audited accounts and the budget estimates of the Institute for the next financial year as it thinks fit together with a statement of its development plans;

(*e*) receive gifts, grants, donations or benefactions from the Government and to receive bequests, donations and transfers of movable or immovable properties from the testators, donors or transferors, as the case may be; and

(*f*) do all such things as may be necessary, incidental or conducive to the attainment of all or any of the aforesaid powers.

(*3*) The Governing Council shall have the power to appoint such committees, as it considers necessary for the exercise of its powers and the performance of its duties under this Act.

(*4*) Notwithstanding anything contained in sub-section (*2*) of section 4, the Governing Council shall not dispose of in any manner any immovable property without the prior approval of the Central Government.

(*5*) The Central Government may appoint one or more persons to review the work and

progress of the Institute and to hold inquiries into the affairs thereof and to report thereon in such manner as the Central Government may direct.

(*6*) Upon receipt of any such report, the Central Government may take such action and issue such directions as it considers necessary in respect of any of the matters dealt within the report and the Institute shall be bound to comply with such directions.

(*7*) The Central Government shall have the power to remove Chairperson or other Members or reconstitute the Governing Council, if it considers it appropriate to do so.

(*8*) No Chairperson or Member shall be removed under sub-section (*7*) unless he has been given a reasonable opportunity of being heard in the matter.

Institute be open to all races, creeds and classes.

9. (*1*) The Institute shall be open to persons of all sex and of whatever race, creed, caste or class, and no test or condition shall be imposed as to religious belief or profession in admitting or appointing members, students, teachers or workers or in any other connection whatsoever.

(*2*) No bequest, donation or transfer of any property shall be accepted by the Institute, which in the opinion of the Governing Council involves conditions or obligations opposed to the spirit and object of this section.

Teaching at Institute.

10. All teaching at the campuses of the Institute shall be conducted by or in the name of the Institute in accordance with the Statutes and the Ordinances made in this behalf.

Visitor.

11. The President of India shall be the Visitor of the Institute.

Authorities of Institute.

12. The following shall be the authorities of the Institute, namely:—

(*a*) a Governing council;

(*b*) a Senate; and

(*c*) such other authorities as may be declared by the Statutes to be the authorities of the Institute.

The Senate.

13. The Senate of the Institute shall consist of the following persons, namely:—

(*a*) the Managing Director, *ex officio* who shall be the Chairperson of the Senate;

(*b*) the Secretary, *ex officio*;

(*c*) the Executive Directors of all Institute campus, *ex officio*;

(*d*) all Senior Professors of the Institute;

(*e*) three persons, not being employees of the Institute, to be nominated by the Chairperson in consultation with the Managing Director, from amongst educationists of repute, from the fields of footwear, science, engineering and humanities and one of them shall be woman;

(*f*) one alumnus of the Institute to be nominated by the Chairperson in consultation with the Managing Director by rotation; and

(*g*) such other members of the staff as may be laid down in the Statutes.

Functions of Senate.

14. (*1*) Subject to the provisions of this Act, the Statutes and the Ordinances, the Senate of the Institute shall be the principal academic body of the Institute and shall have the control and general regulation, and be responsible for the maintenance of standards of instruction, education and examinations in the Institute and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Senate shall have the following powers, namely:—

(*a*) to specify the criteria and process for admission to courses or programmes of study by the Institute;

(*b*) to recommend to the Governing Council for creation of teaching and other academic posts, determination of number and emoluments of such posts and defining the duties and conditions of service of teachers and other academic posts;

(*c*) to recommend to the Governing Council for commencement of new programmes and course of study;

(*d*) to specify academic contents of programmes and course of study and to undertake modifications therein;

(*e*) to specify the academic calendar and approve grant of degrees, diplomas and other academic distinctions or titles; and

(*f*) to exercise such other powers and discharge such other functions as may be assigned to it, by Statutes or by the Governing Council.

Functions, powers and duties of Chairperson.

15. (*1*) The Chairperson shall ordinarily preside at the meetings of the Governing Council and at the Convocations of the Institute.

(*2*) The Chairperson shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes.

(*3*) The Chairperson shall have the authority to review periodically the work and progress of the Institute and to order enquiries into the affairs of the Institute.

Managing Director.

16. (*1*) The Managing Director of the Institute shall be appointed by the Central Government for a tenure of five years and on such terms and conditions of services as may be prescribed.

(*2*) The Managing Director shall be the principal executive officer of the Institute and shall be responsible for the proper administration of the Institute and for imparting of instruction and maintenance of discipline therein.

(*3*) The Managing Director shall exercise such other powers and perform such other duties as may be assigned to him by this Act, the Statutes and the Ordinances or delegated by the Governing Council or the Senate.

(*4*) The Managing Director shall submit annual reports and accounts to the Governing Council.

(*5*) The Central Government shall have the power to remove the Managing Director before the tenure of five years, if it considers it appropriate to do so on the grounds of misconduct or incapacity after giving him an opportunity of being heard in the matter.

(*6*) The Managing Director shall be responsible for the implementation of the decision of the Governing Council and the Senate.

Secretary.

17. (*1*) The Secretary of the Institute shall be appointed by the Central Government for a tenure of five years and on such terms and conditions of service as may be prescribed.

(*2*) The Secretary shall act as the Secretary of the Governing Council, the Senate and such committees as may be specified by the Statutes.

(*3*) The Secretary shall be responsible to the Managing Director for the proper discharge of his functions.

(*4*) The Secretary shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes or the Managing Director.

Executive Director.

18. (*1*) The Executive Director of each Institute campus shall be appointed by the Central Government for a tenure of five years and on such terms and conditions as may be prescribed and shall exercise such powers and perform such duties as may be assigned to him by this Act or the Statutes or by the Managing Director.

(*2*) The Executive Director shall be the principal academic and executive officer of the Institute campus and shall be responsible for the implementation of the decision of the Governing Council and the Senate and the day-to-day administration of the Institute campus in consultation with the Managing Director.

Power and duties of other authorities and officers.

19. The powers and duties of authorities and officers, other than those hereinbefore mentioned, shall be determined by the Statutes.

Grants by Central Government.

20. For the purpose of enabling the Institute to discharge its functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Institute in each financial year such sums of money and in such manner as it may think fit.

Funds of Institute.

21. (*1*) The Institute shall maintain a Fund to which shall be credited—

(*a*) all moneys provided by the Central Government;

(*b*) all fees and other charges received by the Institute;

(*c*) all moneys received by the Institute by way of loans, grants, gifts, donations, benefactions, bequests or transfers; and

(*d*) all moneys received by the Institute in any other manner or from any other source.

(*2*) All moneys credited to the Fund shall be deposited in such banks or invested in such manner as the Institute may, with the approval of the Governing Council decide.

(*3*) The Fund shall be applied towards meeting the expenses of the Institute, including expenses incurred in the exercise of its powers and discharge of its duties under this Act.

Setting up of endowment fund.

22. Notwithstanding anything contained in section 21, the Central Government may direct the Institute to—

(*a*) set-up an endowment fund and any other fund for specified purpose; and

(*b*) transfer money from its Fund to endowment fund or any other fund.

Accounts and audit.

23. (*1*) The Institute shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance sheet, in such form as may be specified, in accordance with such general directions as may be issued by the Central Government in consultation with the Comptroller and Auditor-General of India.

(*2*) The accounts of the Institute shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Institute to the Comptroller and Auditor-General of India.

(*3*) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Institute shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India, generally has in connection with the audit of the Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Institute.

(*4*) The accounts of the Institute as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Pension and provident fund.

24. (*1*) The Institute shall constitute, for the benefit of its employees, including the Managing Director in such manner and subject to such conditions as may be specified by the Statutes, such pension, insurance and provident funds as it may consider necessary.

19 of 1925.

(*2*) Where any such provident fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925 shall apply to such fund as if it were a Government Provident Fund.

Appointment.

25. All appointments of the staff of the Institute, except that of the Managing Director, Secretary and Executive Director shall be made in accordance with the procedure laid down in the Statutes by—

(*a*) the Governing Council, if the appointment is made on the academic staff in the post of Assistant Professor or above or if the appointment is made on the non-academic staff in any cadre, the maximum of the pay scale for which is the same or higher than that of Assistant Professor; and

(*b*) the Managing Director, in any other case.

Statutes.

26. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(*a*) the formation of departments of teaching, centre of research, establishment of workshops, laboratories, studios;

(*b*) the institution of fellowships, scholarships, exhibitions, medals and prizes;

(*c*) the classification, term of office, qualification, the method of appointment and the determination of the terms and conditions of service of officers, teachers and other staff of the Institute;

(*d*) the reservation of posts for the Scheduled Castes, the Scheduled Tribes and other backward categories of person as may be determined by the Central Government;

(*e*) the constitution of pension, insurance and provident funds for the benefit of the officers, teachers and other staff of the Institute;

(*f*) the constitution, powers and duties of the authorities of the Institute;

(*g*) the manner of filling up of vacancies among members of the Governing Council;

(*h*) the authentication of the orders and decisions of the Governing Council;

(*i*) the meetings of the Governing Council, Senate or any Committee, the quorum at such meetings and the procedure to be followed in the conduct of their business;

(*j*) conferment of honorary degree;

(*k*) the establishment and maintenance of halls and hostels;

(*l*) the conditions of residence of students of the Institute and the levying of the fees for residence in the halls and hostels and other charges; and

(*m*) any other matter which by this Act is to be or may be specified by the Statutes.

Statutes how made.

27. (*1*) The first Statutes of the Institute shall be framed by the Governing Council with the previous approval of the Visitor and shall be laid as soon as may be before each House of Parliament.

(*2*) The Governing Council may, from time to time, make new or additional Statutes or may amend or repeal the Statutes in the manner hereafter in this section provided.

(*3*) Every new Statute or addition to the Statute or any amendment or repeal of a Statute shall require the previous approval of the Visitor who may remit it to the Governing Council for consideration.

(*4*) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

Ordinances.

28. Subject to the provisions of this Act and the Statutes, the Ordinances of the Institute may provide for all or any of the following matters, namely:—

(*a*) the admission of the students to the Institute;

(*b*) the reservation for the Scheduled Castes, the Scheduled Tribes and other backward categories of persons;

(*c*) the courses of study to be laid down for all degrees, diplomas and certificates of the Institute;

(*d*) the conditions under which students shall be admitted to the degree, diploma and certificate courses and to the examinations of the Institute and award of degrees, diplomas and certificates;

(*e*) the conditions for award of fellowships, scholarships, exhibitions, medals and prizes;

(*f*) the conditions and mode of appointment and duties of examining body, examiners and moderators;

(*g*) the conduct of examinations;

(*h*) the maintenance of discipline among the students of the Institute;

(*i*) the fees to be charged for courses of study in the Institute and for admission to the examinations of degrees, diplomas and certificates of the Institute; and

(*j*) any other matter which by this Act or the Statutes is to be or may be provided for by the Ordinances.

Ordinance how made.

29. (*1*) Save as otherwise provided in this section, Ordinances shall be made by the Senate.

(*2*) All Ordinances made by the Senate shall have effect from such date as it may direct, but every Ordinance so made shall be submitted, as soon as may be, to the Governing Council and shall be considered by the Governing Council at its next succeeding meeting.

(*3*) The Governing Council shall have power by resolution to modify or cancel any such Ordinance and such Ordinance shall from the date of such resolution stand modified accordingly or cancelled, as the case may be.

Tribunal of Arbitration.

30. (*1*) Any dispute arising out of a contract between the Institute and any of its employees shall, at the request of the employee concerned or at the instance of the Institute, be referred to a Tribunal of Arbitration consisting of one member appointed by the Institute, one member nominated by the employee and an umpire appointed by the Visitor.

(*2*) The decision of the Tribunal of Arbitration shall be final and shall not be questioned in any court.

(*3*) No suit or proceeding shall lie in any court in respect of any matter which is required by sub-section (*1*) to be referred to the Tribunal of Arbitration.

(*4*) The Tribunal of Arbitration shall have power to regulate its own procedure.

(*5*) Nothing in any law for the time being in force relating to arbitration shall apply to arbitration under this section.

CHAPTER III

MISCELLANEOUS

Act and proceedings not to be invalidated by vacancies.

31. No act of the Institute or Governing Council or Senate or any other body set-up under this Act or the Statutes, shall be invalid merely by reason of—

(*a*) any vacancy in, or defect in the constitution thereof; or

(*b*) any defect in the election, nomination or appointment of a person acting as a member thereof; or

(*c*) any irregularity in its procedure not affecting the merits of the case.

Sponsored schemes.

32. Notwithstanding anything contained in this Act, whenever the Institute receives funds from any Government, the University Grants Commission or any other agency, including industry sponsoring a research scheme or a consultancy assignment or a teaching programme or a chaired professorship or a scholarship, etc., to be executed or endowed at the Institute—

(*a*) the amount received shall be kept by the Institute separately from the Fund of the Institute and utilised only for the purpose of the scheme; and

(*b*) the staff required to execute the same shall be recruited in accordance with the terms and conditions stipulated by the sponsoring organisations:

Provided that any money remaining unutilised shall be transferred to the endowment fund created under section 22 of this Act.

Power of Institute to grant degree, etc.

33. The Institute shall have the power to grant degrees, diplomas, certificates and other academic distinctions under this Act, which shall be equivalent to such corresponding degrees, diplomas, certificates and other academic distinctions granted by any University or Institute established or incorporated under any other law for the time being in force.

22 of 2005.

Institute to be public authority under the Right to Information Act, 2005.

34. The provisions of the Right to Information Act, 2005 shall apply to the Institute, as if it were a public authority as defined in clause (*h*) of section 2 of the Right to Information Act, 2005.

Power of Central Government to make rules.

35. (*1*) The Central Government may, by notification, make rules to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner of appointment of the Managing Director, Secretary and Executive Director and terms and conditions of his services;

(*b*) the terms and conditions of service of the Managing Director, Secretary and the Executive Director under sub-section (*1*) of section 16, sub-section (*1*) of section 17 and sub-section (*1*) of section 18;

(*c*) the form and manner in which the books of account of the Institute shall be maintained under sub-section (*1*) of section 23; and

(*d*) any other matter which is required to be, or may be, prescribed.

(*3*) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of

no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Returns and information to be provided to Central Government.

36. The Institute shall furnish to the Central Government such returns or other information with respect to policies or activities as the Central Government may, for the purpose of reporting to Parliament or for the making of policy, from time to time, require.

Transitional provisions.

37. Notwithstanding anything contained in this Act—

(*a*) the Governing Council of the Society functioning as such, immediately before the commencement of this Act shall continue to so function until a new Governing Council is constituted for the Institute under this Act, but on the constitution of a new Governing Council under this Act the members of the Governing Council holding office before such constitution shall cease to hold office;

(*b*) until the first Statutes and the Ordinances are made under this Act, the rules and regulations, instructions and guidelines of the Society as in force, immediately before the commencement of this Act, shall continue to apply to the Institute insofar as they are not inconsistent with the provisions of this Act; and

(*c*) any student who joined classes of the existing Institute on or after the academic year 2012-2013 or completed the course on or after the academic year 2013-2014 shall for the purposes of clause (*iii*) of section 7, be deemed to have pursued a course of study in the existing Institute if such student has not already been awarded degree or diploma for the same course of study.

Statute and Ordinance to be published in the Official Gazette and to be laid before Parliament.

38. (*1*) Every Statute or Ordinance made under this Act shall be published in the Official Gazette.

(*2*) Every Statute or Ordinance made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute or Ordinance or both Houses agree that the Statute or Ordinance should not be made, the Statute or Ordinance shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute or Ordinance.

(*3*) The power to make Statutes or Ordinances shall include the power to give retrospective effect with the approval of the Central Government from a date not earlier than the date of commencement of this Act to Statutes or Ordinances or any of them but no retrospective effect shall be given to any Statute or Ordinance so as to prejudicially affect the interests of any person to whom such Statutes or Ordinances may be applicable.

Power to remove difficulties.

39. (*1*) lf any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provision or give such direction not inconsistent with the purposes of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

THE SCHEDULE

[*See* section 3(*h*)]

INSTITUTE CAMPUSES

Sl. No.	Name of the State	Name and address of the existing Institute campus and its location
(1)	(2)	(3)
1.	Uttar Pradesh	Footwear Design and Development Institute, A-10/A, Sector-24, Noida, Gautam Budh Nagar, Pin-201301.
2.	Tamil Nadu	Footwear Design and Development Institute, Plot No: E-1, SIPCOT Industrial Park, Irrungattukotai, Kancheepuram.
3.	West Bengal	Footwear Design and Development Institute, Kolkata Leather Complex, Mouzakariadanga, J.L No-32 and Gangapur, J.L No-35, Kolkata.
4.	Haryana	Footwear Design and Development Institute, Plot No- 1, Sector-31 B, IMT Rohtak.
5.	Rajasthan	Footwear Design and Development Institute,Village Mandor, Tehsil Jodhpur, District- Jodhpur.
6.	Uttar Pradesh	Footwear Design and Development Institute, Sultanpur Road, Fursatganj, Raebareli, Pin-229302.
7.	Madhya Pradesh	Footwear Design and Development Institute, Corner Plot, Khasara No:31, Nagpur-Batil Road, Immlikhera Chowk, Chhindwara.
8.	Madhya Pradesh	Footwear Design and Development Institute,Gram Maharajpura Panchayat, Hari Pur, Phawa No-42, Survey No.571/158, 61/1/1/1 on Gram Puraposar Road, Guna.
9.	Bihar	Footwear Design and Development Institute, Plot No P-6, Megha Industrial Area, Moza Dumri, Arra Road, Patna.
10.	Telengana	Footwear Design and Development Institute, LIDCAP Campus, HS Durga, Gachibowli, Bidar-Hyderabad Road, Hyderabad.
11.	Gujarat	Footwear Design and Development Institute, Plot No H-3301, Near ESIC Hospital, Ankleshwar Industrial Estate, Ankleshwar.

(1)	(2)	(3)
12.	Punjab	Footwear Design and Development Institute, District SAS Nagar (Mohali), Chandigarh-Patiala Highway, Chandigarh.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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CORRIGENDUM

In the ENFORCEMENT OF SECURITY INTEREST AND RECOVERY OF DEBTS LAWS AND MISCELLANEOUS PROVISIONS (AMENDMENT) ACT, 2016 (44 OF 2016) as published in the Gazette of India, Extraordinary, Part II, **Section 1, Issue No. 51, dated the 16th August, 2016,**—

Page No.	**Line(s) No.**	**For**	**Read**
17	1	"(*ii*) for sub-section (*3*), the following sub-section shall be substituted, namely:—"	"(*ii*) for the opening portion of sub-section (*3*), the following shall be substituted, namely:—"

UPLOADED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI–110002
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भारत का राजपत्र
The Gazette of India

असाधारण
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भाग II — खण्ड 1
PART II — Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं॰ 31] नई दिल्ली, शनिवार, अगस्त 5, 2017/ श्रावण 14, 1939 (शक)
No. 31] NEW DELHI, SATURDAY, AUGUST 5, 2017/SHRAVANA 14, 1939 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 5*th August,* 2017/*Shravana* 14, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 4th August, 2017 and is hereby published for general information :—

THE COLLECTION OF STATISTICS (AMENDMENT) ACT, 2017

No. 21 OF 2017

[4*th August,* 2017.]

An Act to amend the Collection of Statistics Act, 2008.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Collection of Statistics (Amendment) Act, 2017. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

7 of 2009. **2.** In the Collection of Statistics Act, 2008 (hereinafter referred to as the principal Act), in section 1, for sub-section (*2*), the following sub-section shall be substituted, namely:— Amendment of section 1.

"(*2*) It extends to the whole of India :

Provided that it shall apply to the State of Jammu and Kashmir in so far as it relates to statistics pertaining to matters falling under any of the entries specified in List I (Union List) or List III (Concurrent List) in the Seventh Schedule to the Constitution as applicable to that State.".

Amendment of section 2.

3. In the principal Act, in section 2, after clause (*d*), the following clause shall be inserted, namely:—

'(*da*) "nodal officer" means the officer designated as a nodal officer under sub-section (*1*) of section 3A;'.

Insertion of new section 3A.

4. In the principal Act, after section 3, the following section shall be inserted, namely:—

Nodal officer.

"3A. (*1*) The Central Government or a State Government or Union territory Administration shall designate one of its officers as a nodal officer for the purposes of statistics under this Act.

(*2*) The nodal officer shall coordinate and supervise such statistical activities in the Central Government or the State Government or Union territory Administration, as the case may be, in which he is designated, and shall exercise such other powers and perform such other duties, as may be prescribed.".

Amendment of section 9.

5. In the principal Act, in section 9, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) The statistics officer or any person or agencies authorised under this Act shall, for statistical purposes, use any information furnished under section 6 in such manner as may be prescribed.".

Amendment of section 33.

6. In the principal Act, in section 33,—

(*i*) in sub-section (*1*), after the words "The Central Government may", the words "subject to the condition of previous publication" shall be inserted;

(*ii*) in sub-section (*2*),—

(*A*) after clause (*a*), the following clause shall be inserted, namely:—

"(*aa*) the coordination and supervision of statistical activities by the nodal officer and the powers and duties of the nodal officer under sub-section (*2*) of section 3A;";

(*B*) after clause (*d*), the following clause shall be inserted, namely:—

"(*da*) the manner of use of information under sub-section (*1*) of section 9;".

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

UPLOADED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI–110002
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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 9*th August*, 2017/*Shravana* 18, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 9th August, 2017 and is hereby published for general information :—

THE ADMIRALTY (JURISDICTION AND SETTLEMENT OF MARITIME CLAIMS) ACT, 2017

NO. 22 OF 2017

[9*th August*, 2017.]

An Act to consolidate the laws relating to admiralty jurisdiction, legal proceedings in connection with vessels, their arrest, detention, sale and other matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017. Short title, application and commencement.

(*2*) It shall apply to every vessel, irrespective of the place of residence or domicile of the owner:

Provided that this Act shall not apply to an inland vessel defined in clause (*a*) of sub-section (*1*) of section 2 of the Inland Vessels Act, 1917, or a vessel under construction that has not been launched unless it is notified by the Central Government to be a vessel for the purposes of this Act: 1 of 1917.

Provided further that this Act shall not apply to a warship, naval auxiliary or other vessel owned or operated by the Central or a State Government and used for any non-commercial purpose, and, shall also not apply to a foreign vessel which is used for any non-commercial purpose as may be notified by the Central Government.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. (*1*) In this Act,—

(*a*) "admiralty jurisdiction" means the jurisdiction exercisable by a High Court under section 3, in respect of maritime claims specified under this Act;

(*b*) "admiralty proceeding" means any proceeding before a High Court, exercising admiralty jurisdiction;

(*c*) "arrest" means detention or restriction for removal of a vessel by order of a High Court to secure a maritime claim including seizure of a vessel in execution or satisfaction of a judgment or order;

(*d*) "goods" means any property including live animals, containers, pallets or such other articles of transport or packaging or luggage irrespective of the fact whether such property is carried, on or under the deck of a vessel;

(*e*) "High Court", in relation to an admiralty proceeding, means any of the High Court of Calcutta, High Court of Bombay, High Court of Madras, High Court of Karnataka, High Court of Gujarat, High Court of Orissa, High Court of Kerala, High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh or any other High Court, as may be notified by the Central Government for the purposes of this Act;

(*f*) "maritime claim" means a claim referred to in section 4;

(*g*) "maritime lien" means a maritime claim against the owner, demise charterer, manager or operator of the vessel referred to in clauses (*a*) to (*e*) of sub-section (*1*) of section 9, which shall continue to exist under sub-section (*2*) of that section;

(*h*) "notification" means a notification published in the Official Gazette;

(*i*) "port" shall have the same meaning as assigned to it in the Indian Ports Act, 1908; 15 of 1908.

(*j*) "prescribed" means prescribed by rules made by the Central Government under this Act;

(*k*) "territorial waters" shall have the same meaning as assigned to it in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976; and 80 of 1976.

(*l*) "vessel" includes any ship, boat, sailing vessel or other description of vessel used or constructed for use in navigation by water, whether it is propelled or not, and includes a barge, lighter or other floating vessel, a hovercraft, an off-shore industry mobile unit, a vessel that has sunk or is stranded or abandoned and the remains of such a vessel.

Explanation.—A vessel shall not be deemed to be a vessel for the purposes of this clause, when it is broken up to such an extent that it cannot be put into use for navigation, as certified by a surveyor.

(*2*) The words and expressions used herein but not defined and defined in the Merchant Shipping Act, 1958 shall have the meanings respectively assigned to them in that Act. 44 of 1958.

CHAPTER II

ADMIRALTY JURISDICTION AND MARITIME CLAIMS

Admiralty jurisdiction.

3. Subject to the provisions of sections 4 and 5, the jurisdiction in respect of all maritime claims under this Act shall vest in the respective High Courts and be exercisable over the waters up to and including the territorial waters of their respective jurisdictions in accordance with the provisions contained in this Act:

Provided that the Central Government may, by notification, extend the jurisdiction of the High Court up to the limit as defined in section 2 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976.

80 of 1976.

Maritime claim.

4. (*1*) The High Court may exercise jurisdiction to hear and determine any question on a maritime claim, against any vessel, arising out of any—

(*a*) dispute regarding the possession or ownership of a vessel or the ownership of any share therein;

(*b*) dispute between the co-owners of a vessel as to the employment or earnings of the vessel;

(*c*) mortgage or a charge of the same nature on a vessel;

(*d*) loss or damage caused by the operation of a vessel;

(*e*) loss of life or personal injury occurring whether on land or on water, in direct connection with the operation of a vessel;

(*f*) loss or damage to or in connection with any goods;

(*g*) agreement relating to the carriage of goods or passengers on board a vessel, whether contained in a charter party or otherwise;

(*h*) agreement relating to the use or hire of the vessel, whether contained in a charter party or otherwise;

(*i*) salvage services, including, if applicable, special compensation relating to salvage services in respect of a vessel which by itself or its cargo threatens damage to the environment;

(*j*) towage;

(*k*) pilotage;

(*l*) goods, materials, perishable or non-perishable provisions, bunker fuel, equipment (including containers), supplied or services rendered to the vessel for its operation, management, preservation or maintenance including any fee payable or leviable;

(*m*) construction, reconstruction, repair, converting or equipping of the vessel;

(*n*) dues in connection with any port, harbour, canal, dock or light tolls, other tolls, waterway or any charges of similar kind chargeable under any law for the time being in force;

(*o*) claim by a master or member of the crew of a vessel or their heirs and dependents for wages or any sum due out of wages or adjudged to be due which may be recoverable as wages or cost of repatriation or social insurance contribution payable on their behalf or any amount an employer is under an obligation to pay to a person as an employee, whether the obligation arose out of a contract of employment or by operation of a law (including operation of a law of any country) for the time being in force, and includes any claim arising under a manning and crew agreement relating to a vessel, notwithstanding anything contained in the provisions of sections 150 and 151 of the Merchant Shipping Act, 1958;

44 of 1958.

(*p*) disbursements incurred on behalf of the vessel or its owners;

(*q*) particular average or general average;

(*r*) dispute arising out of a contract for the sale of the vessel;

(*s*) insurance premium (including mutual insurance calls) in respect of the vessel, payable by or on behalf of the vessel owners or demise charterers;

(*t*) commission, brokerage or agency fees payable in respect of the vessel by or on behalf of the vessel owner or demise charterer;

(*u*) damage or threat of damage caused by the vessel to the environment, coastline or related interests; measures taken to prevent, minimise, or remove such damage; compensation for such damage; costs of reasonable measures for the restoration of the environment actually undertaken or to be undertaken; loss incurred or likely to be incurred by third parties in connection with such damage; or any other damage, costs, or loss of a similar nature to those identified in this clause;

(*v*) costs or expenses relating to raising, removal, recovery, destruction or the rendering harmless of a vessel which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such vessel, and costs or expenses relating to the preservation of an abandoned vessel and maintenance of its crew; and

(*w*) maritime lien.

Explanation.—For the purposes of clause (*q*), the expressions "particular average" and "general average" shall have the same meanings as assigned to them in sub-section (*1*) of section 64 and sub-section (*2*) of section 66 respectively of the Marine Insurance Act, 1963. 11 of 1963.

(*2*) While exercising jurisdiction under sub-section (*1*), the High Court may settle any account outstanding and unsettled between the parties in relation to a vessel, and direct that the vessel, or any share thereof, shall be sold, or make such other order as it may think fit.

(*3*) Where the High Court orders any vessel to be sold, it may hear and determine any question arising as to the title to the proceeds of the sale.

(*4*) Any vessel ordered to be arrested or any proceeds of a vessel on sale under this Act shall be held as security against any claim pending final outcome of the admiralty proceeding.

Arrest of vessel in *rem*.

5. (*1*) The High Court may order arrest of any vessel which is within its jurisdiction for the purpose of providing security against a maritime claim which is the subject of an admiralty proceeding, where the court has reason to believe that—

(*a*) the person who owned the vessel at the time when the maritime claim arose is liable for the claim and is the owner of the vessel when the arrest is effected; or

(*b*) the demise charterer of the vessel at the time when the maritime claim arose is liable for the claim and is the demise charterer or the owner of the vessel when the arrest is effected; or

(*c*) the claim is based on a mortgage or a charge of the similar nature on the vessel; or

(*d*) the claim relates to the ownership or possession of the vessel; or

(*e*) the claim is against the owner, demise charterer, manager or operator of the vessel and is secured by a maritime lien as provided in section 9.

(*2*) The High Court may also order arrest of any other vessel for the purpose of providing security against a maritime claim, in lieu of the vessel against which a maritime claim has been made under this Act, subject to the provisions of sub-section (*1*):

Provided that no vessel shall be arrested under this sub-section in respect of a maritime claim under clause (*a*) of sub-section (*1*) of section 4.

Admiralty jurisdiction *in personam*.

6. Subject to section 7, the High Court may exercise admiralty jurisdiction by action *in personam* in respect of any maritime claim referred to in clauses (*a*) to (*w*) of sub-section (*1*) of section 4.

Restrictions on actions *in personam* in certain cases.

7. (*1*) Where any maritime claim arising in respect of a damage or loss of life or personal injury arising out of any—

(*i*) collision between vessels,

(*ii*) the carrying out of or omission to carry out, a manoeuvre in the case of one or more vessels,

(*iii*) non-compliance, on the part of one or more vessels, with the collision regulations made in pursuance of section 285 of the Merchant Shipping Act, 1958, 44 of 1958.

the High Court shall not entertain any action under this section against any defendant unless—

(*a*) the cause of action, wholly or in part, arises in India; or

(*b*) the defendant, at the time of commencement of the action by the High Court, actually and voluntarily resides or carries on business or personally works for gain in India:

Provided that an action may be entertained in a case, where there are more defendants than one and where one of the defendants who does not actually and voluntarily reside or carry on business or personally work for gain in India is made a party to such action either with the leave of the court, or each of the defendants acquiesces in such action.

(*2*) The High Court shall not entertain any action *in personam* to enforce a claim to which this section applies until any proceedings previously brought by the plaintiff in any court outside India against the same defendant in respect of the same incident or series of incidents have been discontinued or have otherwise come to an end.

(*3*) The provisions of sub-section (*2*) shall apply to counter-claims as they apply to actions except counter-claims in proceedings arising out of the same incident or series of incidents.

(*4*) A reference to the plaintiff and the defendant for the purpose of sub-section (*3*) shall be construed as reference to the plaintiff in the counter-claim and the defendant in the counter-claim respectively.

(*5*) The provisions of sub-sections (*2*) and (*3*) shall not apply to any action or counter-claim if the defendant submits or agrees to submit to the jurisdiction of the High Court.

(*6*) Subject to the provisions of sub-section (*2*), the High Court shall have jurisdiction to entertain an action *in personam* to enforce a claim to which this section applies whenever any of the conditions specified, in clauses (*a*) and (*b*) of sub-section (*1*) is satisfied and any law for the time being in force relating to the service of process outside the jurisdiction shall apply.

Vesting of rights on sale of vessels.

8. On the sale of a vessel under this Act by the High Court in exercise of its admiralty jurisdiction, the vessel shall vest in the purchaser free from all encumbrances, liens, attachments, registered mortgages and charges of the same nature on the vessel.

Inter se priority on maritime lien.

9. (*1*) Every maritime lien shall have the following order of *inter se* priority, namely:—

(*a*) claims for wages and other sums due to the master, officers and other members of the vessel's complement in respect of their employment on the vessel, including costs of repatriation and social insurance contributions payable on their behalf;

(*b*) claims in respect of loss of life or personal injury occurring, whether on land or on water, in direct connection with the operation of the vessel;

(*c*) claims for reward for salvage services including special compensation relating thereto;

(*d*) claims for port, canal, and other waterway dues and pilotage dues and any other statutory dues related to the vessel;

(*e*) claims based on tort arising out of loss or damage caused by the operation of the vessel other than loss or damage to cargo and containers carried on the vessel.

(*2*) The maritime lien specified in sub-section (*1*) shall continue to exist on the vessel notwithstanding any change of ownership or of registration or of flag and shall be extinguished after expiry of a period of one year unless, prior to the expiry of such period, the vessel has been arrested or seized and such arrest or seizure has led to a forced sale by the High Court:

Provided that for a claim under clause (*a*) of sub-section (*1*), the period shall be two years from the date on which the wage, sum, cost of repatriation or social insurance contribution, falls due or becomes payable.

(*3*) The maritime lien referred to in this section shall commence—

(*a*) in relation to the maritime lien under clause (*a*) of sub-section (*1*), upon the claimant's discharge from the vessel;

(*b*) in relation to the maritime liens under clauses (*b*) to (*e*) of sub-section (*1*), when the claim arises,

and shall run continuously without any suspension or interruption:

Provided that the period during which the vessel was under arrest or seizure shall be excluded.

(*4*) No maritime lien shall attach to a vessel to secure a claim which arises out of or results from—

(*a*) damage in connection with the carriage of oil or other hazardous or noxious substances by sea for which compensation is payable to the claimants pursuant to any law for the time being in force;

(*b*) the radioactive properties or a combination of radioactive properties with toxic, explosive or other hazardous properties of nuclear fuel or of radioactive products or waste.

Order of priority of maritime claims.

10. (*1*) The order of maritime claims determining the *inter se* priority in an admiralty proceeding shall be as follows:—

(*a*) a claim on the vessel where there is a maritime lien;

(*b*) registered mortgages and charges of same nature on the vessel;

(*c*) all other claims.

(*2*) The following principles shall apply in determining the priority of claims *inter se*—

(*a*) if there are more claims than one in any single category of priority, they shall rank equally;

(*b*) claims for various salvages shall rank in inverse order of time when the claims thereto accrue.

Protection of owner, demise charterer, manager or operator or crew of vessel arrested.

11. (*1*) The High Court may, as a condition of arrest of a vessel, or for permitting an arrest already effected to be maintained, impose upon the claimant who seeks to arrest or who has procured the arrest of the vessel, an obligation to provide an unconditional undertaking to pay such sums of money as damages or such security of a kind for an amount and upon such terms as may be determined by the High Court, for any loss or damage which may be incurred by the defendant as a result of the arrest, and for which the claimant may be found liable, including but not restricted to the following, namely:—

(*a*) the arrest having been wrongful or unjustified; or

(*b*) excessive security having been demanded and provided.

(*2*) Where pursuant to sub-section (*1*), the person providing the security may at any time, apply to the High Court to have the security reduced, modified or cancelled for sufficient reasons as may be stated in the application.

(*3*) If the owner or demise charterer abandons the vessel after its arrest, the High Court shall cause the vessel to be auctioned and the proceeds appropriated and dealt with in such manner as the court may deem fit within a period of forty-five days from the date of arrest or abandonment:

Provided that the High Court shall, for reasons to be recorded in writing, extend the period of auction of the vessel for a further period of thirty days.

CHAPTER III

PROCEDURE AND APPEALS

5 of 1908.

Application of Code of Civil Procedure.

12. The provisions of the Code of Civil Procedure, 1908 shall apply in all the proceedings before the High Court in so far as they are not inconsistent with or contrary to the provisions of this Act or the rules made thereunder.

Assistance of assessors.

13. (*1*) Notwithstanding anything contained in any other law for the time being in force, the Central Government shall appoint by notification, a list of assessors with such qualifications and experience in admiralty and maritime matters, the nature of duties to be performed by them, the fees to be paid to them and other ancillary or incidental matters for the purposes of this Act, in the manner as may be prescribed.

(*2*) The appointment of assessors shall not be construed as a bar to the examination of expert witnesses by any of the parties in any admiralty proceeding.

Appeal.

14. Notwithstanding anything contained in any other law for the time being in force, an appeal shall lie from any judgment, decree or final order or interim order of a single Judge of the High Court under this Act to a Division Bench of the High Court.

Transfer of proceedings by Supreme Court.

15. The Supreme Court may on an application of any party, transfer, at any stage, any admiralty proceeding from one High Court to any other High Court and the latter High Court shall proceed to try, hear and determine the matter from the stage at which it stood at the time of transfer:

Provided that no such proceeding shall be transferred unless parties to the proceeding have been given an opportunity of being heard in the matter.

CHAPTER IV

MISCELLANEOUS

Power to make rules.

16. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, the rules may provide for all or any of the following matters, namely:—

(*a*) the qualification, experience, nature of duties and fee to be paid to the assessors and other ancillary or incidental matters under sub-section (*1*) of section 13;

(*b*) the practice and procedure of admiralty jurisdiction under this Act including fees, costs and expenses in such proceedings; and

(*c*) any other matter which is required to be, or may be, prescribed.

(*3*) Until rules are made under sub-section (*2*) by the Central Government, all rules for the time being in force governing the exercise of admiralty jurisdiction in the High Courts shall be applicable.

(*4*) Every rule made under this Act shall be laid, as soon as may be after the rule is made, or notification issued before each House of Parliament while it is in session for a total period of thirty days comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect, only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Repeal and savings.

17. (*1*) The application in India of the following enactments are hereby repealed—

(*a*) the Admiralty Court Act, 1840; 3 & 4 Vict., c. 65.

(*b*) the Admiralty Court Act, 1861; 24 & 25 Vict., c. 10.

(*c*) the Colonial Courts of Admiralty Act, 1890; 53 and 54 vict., c. 27.

(*d*) the Colonial Courts of Admiralty (India) Act, 1891; and 16 of 1891.

(*e*) the provisions of the Letters Patent, 1865 in so far as they apply to the admiralty jurisdiction of the Bombay, Calcutta and Madras High Courts.

(*2*) Notwithstanding the repeal, all admiralty proceedings pending in any High Court immediately before the commencement of this Act shall continue to be adjudicated by such court in accordance with the provisions of this Act.

(*3*) Anything done or any action taken, under the provisions of the repealed enactments, shall in so far as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of the Act as if the said provisions were in force when such thing was done or such action was taken and shall continue to be in force accordingly until superseded by anything done or any action taken under this Act or rules made thereunder.

(*4*) Any rule, regulation, bye-law made or order or notice issued under the repealed enactments, shall so far as it is not inconsistent with the provisions of this Act or rules made thereunder be deemed to have been done or taken under the corresponding provisions of this Act.

Power to remove difficulties.

18. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 9*th August,* 2017/*Shravana* 18, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 9th August, 2017 and is hereby published for general information:—

THE INDIAN INSTITUTES OF INFORMATION TECHNOLOGY (PUBLIC-PRIVATE PARTNERSHIP) ACT, 2017

NO. 23 OF 2017

[9*th August,* 2017.]

An Act to declare certain Indian Institutes of Information Technology established under public-private partnership as institutions of national importance, with a view to develop new knowledge in information technology and to provide manpower of global standards for the information technology industry and to provide for certain other matters connected with such institutions or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Indian Institutes of Information Technology (Public-private Partnership) Act, 2017. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Declaration of certain institutions as institutions of national importance.

2. Whereas the objects of the Institutes mentioned in the Schedule are such as to make them institutions of national importance, it is hereby declared that each such Institute is an institution of national importance.

Definitions.

3. In this Act, unless the context otherwise requires,—

(*a*) "appointed day" means the date of establishment of the Institutes established under sub-section (*2*) of section 4;

(*b*) "Board", in relation to any Institute, means the Board of Governors referred to in sub-section (*1*) of section 14;

(*c*) "Chairperson" means the Chairperson of the Board appointed under sub-section (*2*) of section 14;

(*d*) "Co-ordination Forum" means the Co-ordination Forum established under sub-section (*1*) of section 38;

(*e*) "Director" means the Director of the Institute;

(*f*) "existing Institute" means the Institute mentioned in column (3) of the Schedule;

(*g*) "industry partner" means an individual, or a trust established under the Indian Trusts Act, 1882, or a company established under the Companies Act, 2013, or society formed and registered under the Societies Registration Act, 1860, or a financial institution or a combination of one or more of such industry partners; 2 of 1882. 18 of 2013. 21 of 1860.

(*h*) "Institute" means any of the institutions mentioned in column (5) of the Schedule and such other Institutes established under section 11;

(*i*) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(*j*) "prescribed" means prescribed by rules made under this Act;

(*k*) "public-private partnership " means such partnership under a scheme of the Central Government which provides for establishment of Institute involving collaboration between the Central Government, the State Government and industry partners;

(*l*) "Schedule" means the Schedule to this Act;

(*m*) "Senate", in relation to any Institute, means the Senate thereof;

(*n*) "Statutes" and "Ordinances", in relation to any Institute, mean the Statutes and Ordinances of the Institute made under this Act.

CHAPTER II

THE INSTITUTES

Incorporation of Institutes.

4. (*1*) On and from the commencement of this Act, every existing Institute, shall be a body corporate by the same name as mentioned in column (5) of the Schedule.

(*2*) On and from the appointed day, any other Institute of Information Technology as may be established under section 11 shall be a body corporate by such name as the Central Government may, by notification, specify.

(*3*) Every existing Institute or any Institute established under sub-section (*2*) shall have perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by its name, sue or be sued.

Effect of incorporation of Institutes.

5. On and from the date of commencement of this Act,—

(*a*) any reference to any existing Institute in any contract or other instrument shall be deemed to be reference to the corresponding Institute mentioned in column (5) of the Schedule;

(*b*) all properties, movable and immovable, belonging to every existing Institute shall vest in the corresponding Institute mentioned in column (5) of the Schedule;

(*c*) all rights, debts and other liabilities of every existing Institute shall be transferred to, and be the rights and liabilities of, the corresponding Institute mentioned in column (5) of the Schedule;

(*d*) every person employed by any existing Institute, immediately before such commencement, shall hold his office or service in the corresponding Institute mentioned in column (5) of the Schedule, with the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held the same if this Act had not been enacted and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and the terms and conditions are duly altered by the Statutes:

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the Institute in accordance with the terms of the contract with the employee or, if no provision is made therein in this behalf, on payment to him by the Institute of compensation equivalent to three months' remuneration in the case of permanent employees and one month's remuneration in case of other employees:

Provided further that any reference, by whatever form of words, to the Director, Registrar and other officers of any existing Institute, in any law for the time being in force, or in any instrument or other document, shall be deemed to be reference to the Director, Registrar and other officers of the corresponding Institute mentioned in column (5) of the Schedule;

(*e*) every person pursuing, before the commencement of this Act, any academic or research course in any existing Institute, shall be deemed to have migrated and registered with the corresponding Institute mentioned in column (5) of the Schedule, on such commencement at the same level of course in the Institute from which such person migrated;

(*f*) all suits and other legal proceedings instituted or which could have been instituted by or against an existing Institute, immediately before the commencement of this Act, shall be continued or instituted by or against the corresponding Institute mentioned in column (5) of the Schedule.

Objects of Institute.

6. Every Institute shall have the following objectives, namely:—

(*a*) to emerge amongst the foremost institutions in information technology and allied fields of knowledge in the global context;

(*b*) to advance new knowledge and innovation in information technology and allied fields to empower the nation to the forefront in the global context;

(*c*) to develop competent and capable youth imbued with the spirit of innovation and entrepreneurship with the social and environmental orientation to meet the knowledge needs of the country and provide global leadership in information technology and allied fields;

(*d*) to promote and provide transparency of highest order in matters of admission, appointment to various positions, academic evaluation, administration and finance.

Powers and functions of Institute.

7. (*1*) Subject to the provisions of this Act, every Institute shall exercise the following powers and perform the following functions, namely:—

(*a*) to provide instructions in such fields of knowledge relating to information technology and allied areas as the Institute may deem fit, for the advancement of learning and dissemination of knowledge;

(*b*) to lead, organise and conduct research and innovation in information technology and allied fields of knowledge in such manner as the Institute may deem fit, including in collaboration or in association with any other Institute, educational institution, research organisation, body corporate or financial organisations at national or global level;

(*c*) to hold examinations and grant degrees, diplomas and other academic distinctions or titles and to confer honorary degrees;

(*d*) to create academic, administrative, technical, ministerial and other posts under the Institute other than the post of Director of the Institute and to make appointments thereto;

(*e*) to appoint persons working in any other Institute or educational institution or involved in research of significance in any industry as adjunct, guest or visiting faculty of the Institute on such terms and for such duration as the Institute may decide;

(*f*) to create administrative and other posts and to make appointments thereto on the basis of criteria as may be decided by the Board;

(*g*) to make provision for dissemination of knowledge emerging from research and for that purpose to enter into such arrangements, including consultancy and advisory services, with other institutions, industry, civil society or other organisations, as the Institute may deem necessary;

(*h*) to create a website, highlight all information not restricted to those related to students, admission, fee, administrative structure, policies including recruitment rules, faculty and non-faculty posts, annual reports and financial details including statement of account of the Institute;

(*i*) to determine, specify and receive payment of fees and other charges, as the Institute may deem fit, from students and any other person, institution or body corporate for instructions and other services, including training, consultancy and advisory services, provided by the Institute;

(*j*) to deal with any property belonging to, or vested in, the Institute in such manner as the Institute may deem fit for advancement of the objectives of the Institute:

Provided that no land or other immovable property shall be disposed of by the Institute without the prior approval of the concerned State Government and the Central Government;

(*k*) to receive gifts, grants, donations or benefactions from the Government and to receive bequests, donations and transfer of movable or immovable properties from testators, donors or transferors, as the case may be;

(*l*) to co-operate with educational or other institutions in any part of the world having objects wholly or partly similar to those of the Institute by exchange of teachers and scholars and generally in such manner as may be conducive to their common objects;

(*m*) to establish and maintain such infrastructure as may be necessary, incidental or conducive to the attainment of the objectives of the Institute;

(*n*) to institute and award fellowships, scholarships, exhibitions, prizes and medals; and

(*o*) to do all such things as may be necessary, incidental or conducive to the attainment of all or any of the objectives of the Institute.

(*2*) Subject to the provisions of this Act, every Institute may take up the following works, namely:—

(*a*) supporting and collaborating with educational Institutes imparting technical or information technology courses located in the zone or region;

(*b*) advising the State Governments and Union territory Administrations included in its zone in matters of information technology and other technological issues referred by them to the Institute for advice.

Institutes to be open to all races, creeds and classes.

8. (*1*) Every Institute shall be open to all citizens irrespective of gender, caste, creed, disability, domicile, ethnicity, social or economic background.

(*2*) No bequest, donation or transfer of any property shall be accepted by any Institute which in the opinion of the Co-ordination Forum involves conditions or obligations opposed to the spirit and object of this section.

(*3*) Admissions to every programme of study in each Institute shall be based on merit assessed through transparent and reasonable criteria disclosed through its prospectus, prior to the commencement of the process of admission by such Institute:

Provided that every such Institute shall be a Central Educational Institution for the purposes of the Central Educational Institutions (Reservation in Admission) Act, 2006.

5 of 2007.

Teaching at Institute.

9. All teaching at each of the Institute shall be conducted by or in the name of the Institute in accordance with the Statutes and Ordinances made in this behalf.

Institute to be a distinct legal entity not-for-profit.

10. (*1*) Every Institute shall be a not-for-profit legal entity and no part of the surplus, if any, in revenue of such Institute, after meeting all expenditure in regard to its operations under this Act, shall be invested for any purpose other than for the growth and development of such Institute or for conducting research therein.

(*2*) Every Institute shall strive to raise funds for creation of a corpus for self-sufficiency, sustainability and future development of the Institute.

Establishment of Institute by Central Government, State Government and industry partners.

11. (*1*) The State Government shall identify at least one industry partner, and preferably three industry partners, for collaboration and submit a proposal to the Central Government.

(*2*) The Central Government shall examine the proposal on the basis of such criteria, as may be prescribed, which shall include the following, namely:—

(*a*) the investment of capital required for establishing the proposed Institute to be borne by the Central Government, the concerned State Government and industry partners in the ratio 50:35:15 and recurring expenditure, as may be considered necessary during the first five years of operation, to be made available by the Central Government:

Provided that the ratio of investment of capital required for establishing the proposed Institute in North Eastern States shall be 57.5:35:7.5;

(*b*) the expertise and standing of the industry partners proposed in sub-section (*1*) in the field of information technology;

(*c*) the assessment of the capability, financial and other resources of industry partners to support the Institute;

(*d*) the suitability of adequate land, to the extent of fifty to hundred acres, to be provided by the State Government free of cost;

(*e*) the availability of, or the commitment of the State Government to make available, adequate physical infrastructure namely, water, electricity, road connectivity and security, at the proposed site.

(*3*) The Central Government may, with the concurrence of the concerned State Government, suggest modifications, if any, to the proposal submitted to it under sub-section (*1*).

(*4*) Where a proposal submitted by the State Government under sub-section (*1*) is not acceptable to the Central Government, the Central Government shall communicate its decision to that State Government, specifying the reasons for such decision.

(*5*) The Central Government shall, on acceptance of the proposal with modifications, if any, under sub-section (*3*), enter into a memorandum of understanding or an agreement with the concerned State Government and the industry partners for the establishment of the proposed Institute.

(*6*) The industry partner shall—

(*a*) actively participate in the governance of the Institute within the overall framework;

(*b*) support and facilitate joint research projects with the Indian Institutes of Information Technology either through funding, collaboration or in any other manner;

(*c*) depute experienced individuals as adjunct faculty;

(*d*) encourage, enable, support and mentor students to do research project as a part of their course curriculum, within their enterprise;

(*e*) accept faculty members of the the Indian Institutes of Information Technology on a sabbatical to work for short period with the industry;

(*f*) co-create programs as per the requirements of the industry with the Institution;

(*g*) provide internship to students from the the Indian Institutes of Information Technology;

(*h*) facilitate for placement of students from the Indian Institutes of Information Technology;

(*i*) sponsor their eligible employees for doctorate studies in the Indian Institutes of Information Technology; and

(*j*) fund and mentor the startups in the Institution.

(*7*) Every memorandum of understanding or agreement referred to in sub-section (*5*) shall contain—

(*a*) the investment proposal of capital in establishment of the Institute and the respective shares as may be prescribed;

(*b*) the first Statutes of the Institute;

(*c*) the commitment of the Central Government, the concerned State Government, and the industry partner in ensuring autonomy to the proposed Institute; and

(*d*) the conditions, if the industry partners pulls out.

CHAPTER III

AUTHORITIES OF INDIAN INSTITUTES OF INFORMATION TECHNOLOGY ESTABLISHED IN PUBLIC-PRIVATE PARTNERSHIP

Visitor.

12. (*1*) The President of India shall be the Visitor of every Institute.

(*2*) The Visitor may appoint one or more persons to review the work and progress of any Institute and to hold inquiries into the affairs thereof and to report thereon in such manner as the Visitor may direct.

(*3*) Upon receipt of any such report, the Visitor may take such action and issue such directions as he considers necessary in respect of any of the matters dealt within the report and the Institute shall be bound to comply with such directions within a reasonable time.

Authorities of Institute.

13. The following shall be the authorities of an Institute, namely:—

(*a*) Visitor;

(*b*) Board of Governors;

(*c*) Senate;

(*d*) Finance Committee;

(*e*) such other authorities or posts as may be declared by the Statutes to be the authorities of the Institute.

Board of Governors.

14. (*1*) The Board of Governors of each Institute shall be the principal policy making and executive body of the Institute.

(*2*) The Board shall consist of the following members, namely:—

(*a*) Chairperson, an eminent technologist or industrialist or educationist to be nominated by the Visitor on the recommendation of the Central Government;

(*b*) one nominee each of the Central Government and the concerned State Government;

(*c*) three eminent persons, of which at least one shall be a woman, appointed by the Board out of industry, research laboratories, and civil society, one from each category;

(*d*) two eminent academicians appointed by the Board;

(*e*) one nominee representing each of the industry partners:

Provided that if there are more than two industry partners then the number of representatives of industry partners at any time would be limited to two, chosen amongst themselves by rotation every two years;

(*f*) Director of an Indian Institute of Technology or a National Institute of Technology located in the region, to be nominated by the Board;

(*g*) two members from the faculty of the Institute, preferably one Professor and one Associate/Assistant Professor, to be nominated by the Senate;

(*h*) one person from the Scheduled Castes or the Scheduled Tribes distinguished in the field of education or industry or social service or public service, to be nominated by the Board, in case any of the above do not belong to the Scheduled Castes or the Scheduled Tribes; and

(*i*) Director of the Institute, *ex officio.*

(*3*) Registrar of the concerned Institute shall be the *ex officio* non-member Secretary of the Board.

(*4*) The First Board of Governors shall be notified by the Central Government by obtaining nominations under sub-section (*2*), other than the members referred to in clauses (*c*), (*d*), (*f*) and (*h*), which shall be decided in the first meeting of the Board of Governors.

Term of office of vacancies among and allowances payable to, members of Board.

15. (*1*) Save as otherwise provided in this section, the term of office of the Chairperson or any other member of the Board, other than an *ex officio* member, shall be for a period of three years from the date of nomination.

(*2*) The term of office of an *ex officio* member shall continue so long as the member holds the office by virtue of which he is a member.

(*3*) A member of the Board, other than an *ex officio* member, who fails to attend three consecutive meetings of the Board without the leave of absence, shall cease to be a member of the Board.

(*4*) One-third of the members of the Board shall form a quorum of the Board, provided at least three members are from members referred to in clauses other than clauses (*e*), (*g*) and (*i*) of sub-section (*2*) of section 14.

(*5*) The members of the Board shall be entitled to such allowances, as may be laid down in Statutes, for attending meetings of the Board or as may be convened by the Institute.

Resignation of Chairperson.

16. (*1*) The Chairperson may, by writing under his hand addressed to the Visitor, resign his office.

(*2*) Any member of the Board, except *ex officio* members, may, by writing under his hand addressed to the Chairperson, resign his office.

Powers and functions of Board.

17. (*1*) Subject to the provisions of this Act, the Board shall be responsible for the general policy making, superintendence, providing direction and shall have the power to frame, amend, modify or rescind the Statutes and the Ordinances governing the affairs of the Institute to achieve the objectives specified in section 6.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Board shall have the following powers, namely:—

(*a*) to decide questions of policy relating to the Institute;

(*b*) to establish departments, faculties or schools of studies and initiate programmes or courses of study at the Institute;

(*c*) to examine and approve the annual budget estimates of the Institute;

(*d*) to examine and approve the plan for development of the Institute and to identify sources of finance for implementation of the plan;

(*e*) to create teaching, academic, administrative, technical and other posts and to make appointments thereto;

(*f*) to provide by the Statutes, the qualifications, criteria and processes for appointment to teaching and other posts in the Institute;

(*g*) to approve fees and other charges payable for pursuit of studies, courses or programmes in the Institute;

(*h*) to make Statutes, subject to provisions of section 32, governing the administration, management and operations of such Institute;

(*i*) to grant degrees, diplomas and other academic distinctions or titles, and to institute and award fellowships, scholarships, prizes and medals; and

(*j*) to exercise such other powers and perform such other duties as may be conferred or imposed by this Act or the Statutes.

(*3*) The Board may, subject to the provisions of this Act and the Statutes, delegate such powers and functions to the Senate or the Director, as the Board may deem fit.

(*4*) The Board shall put in place policies to make the Institute self-sustaining within a period of five years.

(*5*) The Board shall periodically conduct a review of the performance of the Director with specific reference to the leadership in the achievement of the objectives of the Institute.

(*6*) The Board shall in exercise of the powers and discharge of functions strive to provide autonomy in academic matters to the Senate and departments of faculties or schools, as the case may be.

(*7*) Wherein the opinion of the Director or the Chairperson, the situation is so emergent that an immediate decision needs to be taken in the interest of the Institute, the Chairperson, in consultation with the Director, may issue such orders as may be necessary, recording in writing the grounds for the opinion:

Provided that such orders shall be submitted for ratification of the Board in the next meeting.

Senate.

18. (*1*) The Senate of every Institute shall consist of the following persons, namely:—

(*a*) the Director of the Institute who shall be the *ex officio* Chairperson of the Senate;

(*b*) all Deans, *ex officio*;

(*c*) heads of all departments, faculties or schools, *ex officio*, as the case may be, of the Institute;

(*d*) all full-time professors other than the Deans or heads of the Departments;

(*e*) three persons from amongst educationists of repute or persons from another field related to the activities of the Institute who are not in service of the Institute, nominated by the Board;

(*f*) three persons who are not members of teaching staff co-opted by the Senate for their specialised knowledge; and

(*g*) Registrar of the Institute, *ex officio* Secretary.

(*2*) The term of office of members nominated under clauses (*e*) and (*f*) shall be for a period of two years from the date of nomination.

(*3*) The term of office of an *ex officio* member shall continue so long as the member holds the office by virtue of which he is a member.

Powers and functions of Senate.

19. (*1*) Subject to the provisions of this Act, the Statutes and the Ordinances, the Senate shall be the principal academic body of the Institute and shall have the power to enact, amend or modify the Ordinances governing academic matters and the affairs and well-being of students.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Senate shall have the following powers, namely:—

(*a*) to specify the criteria and procedure for admission to courses or programmes of study offered by the Institute;

(*b*) to recommend to the Board creation of teaching and other academic posts, determination of the number and emoluments of such posts and defining the duties and conditions of service of teachers and other academic posts;

(*c*) to recommend to the Board about starting of new programmes or courses of study;

(*d*) to specify the broad academic content of programmes and courses of study and undertake modifications therein;

(*e*) to specify the academic calendar and approve grant of degrees, diplomas and other academic distinctions or titles;

(*f*) to appoint examiners, moderators, tabulators and such other personnel for different examinations;

(*g*) to recognise diplomas and degrees of Universities and other Institutes and to determine equivalence with the diplomas and degrees of the Institute;

(*h*) to suggest measures for departmental co-ordination;

(*i*) to make major recommendations to the Board of Governors on—

(*A*) measures for improvement of standard of teaching, training and research;

(*B*) institution of chairs, fellowships, scholarships, studentships, free-ships, medals and prizes and other related matters;

(*C*) establishment or abolition of departments or centres; and

(*D*) academic functioning of the Institute, discipline, residence, admissions, examinations, award of fellowships and studentships, freeships, concessions, attendance and other related matters;

(*j*) to appoint sub-committees to advise on such specific matters as may be referred to by the Board or by itself;

(*k*) to consider the recommendations of the sub-committees and to take such action including making of recommendations to the Board as may be required;

(*l*) to take periodical review of the activities of the departments or centres and to take appropriate action including making of recommendations to the Board with a view to maintain and improve the standards of instructions, in the institutions; and

(*m*) to exercise such other powers and discharge such other functions as may be assigned to it, by Statutes or otherwise, by the Board.

Finance Committee.

20. (*1*) The Finance Committee of each Institute shall consist of the following persons, namely:—

(*a*) the Chairperson of the Board shall be the *ex officio* Chairperson of the Committee;

(*b*) one representative of the Government of India, Ministry of Human Resource Development, Department of Higher Education handling the matters relating to finance, *ex officio*;

(*c*) one representative of the State Government in which the Institute is located, *ex officio*;

(*d*) one representative of the industry partners chosen from amongst themselves;

(*e*) the Director, *ex officio*; and

(*f*) the officer in-charge of finance and accounts of the Institute, *ex officio* Secretary.

(*2*) The members of the Finance Committee other than *ex officio* members shall hold office for a term of three years.

Powers and functions of Finance Committee.

21. The Finance Committee shall examine the accounts, scrutinise proposals for expenditure and financial estimates of the Institute and thereafter submit it to the Board together with its comments for approval.

Meetings.

22. (*1*) The Chairperson shall ordinarily preside over the meetings of the Board, Finance Committee and at the convocations of the Institute.

(*2*) It shall be the duty of the Chairperson to ensure that the decisions taken by the Board are implemented.

(*3*) The Chairperson shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes.

Director.

23. (*1*) The Director shall be the principal executive officer of the Institute and shall be responsible for implementation of the decisions of the Board and Senate and for day-to-day administration of the Institute.

(*2*) The Director shall be appointed by the Visitor, on such terms and conditions of service as may be laid down by the Statutes.

(*3*) The Director shall be appointed out of the panel of names recommended by a search-cum-selection committee consisting of—

(*a*) Chairperson of the Board, who shall be the Chairperson of the search-cum-selection committee;

(*b*) two members, nominated by the Board, from amongst eminent administrators, industrialists, educationists, scientists, technocrats and management specialists;

(*c*) nominee of the State Government in which the Institute is located;

(*d*) nominee of one of the industry partners by rotation;

(*e*) head of the Bureau, Ministry of Human Resource Development dealing with Indian Institutes of Information Technology—Member Secretary, *ex officio*;

(*4*) The Director shall exercise the powers and perform the duties as may be assigned under this Act or the Statutes or Ordinances, or as may be delegated by the Board.

(*5*) The Director shall, except on account of resignation or removal, hold office for a period of five years from the date of assumption of charge as Director.

(*6*) The Director may, by writing under his hand addressed to the Chairperson, resign his office.

(*7*) The Visitor may remove from office the Director, who —

(*a*) has been adjudged as insolvent; or

(*b*) has been convicted of an offence which, in the opinion of the Visitor, involves moral turpitude; or

(*c*) has become physically or mentally incapable of acting as a Director; or

(*d*) has acquired such financial or other interest as is likely to affect prejudicially the functions as a Director; or

(*e*) has so abused the position or so conducted as to render the continuance in office prejudicial to the public interest:

Provided that the Director shall not be removed from office except by an order made by the Visitor, after an enquiry instituted by the Board, in which the Director has been informed of the charges and given a reasonable opportunity of being heard in respect of those charges.

(*8*) The Board shall initiate the process of appointment in respect of any vacancy due to arise for the post of Director on completion of tenure before a period of six months from the date of arising of such vacancy and that the process of appointment shall be completed before such vacancy arises.

(*9*) Where the post of Director falls vacant on account of any reason other than completion of tenure, the process of appointment shall be initiated by the Board within one month of such vacancy and process shall be completed as early as possible.

Registrar.

24. (*1*) The Registrar of every Institute shall be appointed on such terms and conditions as may be laid down by the Statutes.

(*2*) The Registrar shall exercise such powers and perform such duties as may be assigned to him by the Statutes or by the Director.

(*3*) The Registrar shall be responsible to the Director for the proper discharge of his functions.

Review of performance of Institute.

25. (*1*) The Institute shall, within five years from the date of establishment and incorporation under this Act and thereafter at the expiration of every fifth year, constitute,

with the prior approval of the Board, a review committee or shall appoint an agency as a third party to evaluate the performance of the Institute and its achievements with respect to its objectives during the said period.

(*2*) The review committee constituted under sub-section (*1*) shall consist of members of repute in academia or industry, from relevant fields of teaching, learning and research in such Institute.

(*3*) The third party agency appointed under sub-section (*1*) shall have past experience of conducting such evaluations.

(*4*) The review committee or the third party agency, as the case may be, shall assess the performance of Institute and shall submit its report with recommendations on—

(*a*) the extent of fulfilment of the objects of the Institute mentioned in section 6, as demonstrated by the state of teaching, learning and research, and its contribution to the society;

(*b*) the promotion of transformational research and its impact on industry and society;

(*c*) the advancement of fundamental research beyond the current frontiers of knowledge;

(*d*) the establishment of the Institute as amongst the global leaders in the area of information technology;

(*e*) such other parameters as the Board may consider necessary and specify.

(*5*) The Board shall place the report of the review committee or the third party agency in the public domain and on its website and consider the recommendations referred to in sub-section (*3*) and take such action as it may deem fit:

Provided that the recommendations of the review committee or the third party agency along with an explanatory memorandum on the action taken or proposed to be taken, specifying the reasons thereof, shall be submitted to the Central Government.

CHAPTER IV

ACCOUNTS AND AUDIT

Grants by Central Government and State Governments.

26. (*1*) For the purposes of enabling the Institute to discharge their functions efficiently under this Act, the Central Government and the State Government may, after due appropriation made by the Parliament and the concerned State Legislature, as the case may be, by law in this behalf, pay to each Institute in every financial year such sums of money in such manner as is required to fulfil their obligations under section 11.

(*2*) The Central Government and the concerned State Government shall provide to each Institute, grants of such sums of money as are required to meet the expenditure on scholarships or fellowships instituted by it, including scholarships or fellowships for students from socially and educationally backward classes of citizens enrolled in such Institute.

Fund of Institute.

27. (*1*) Every Institute shall maintain a Fund to which shall be credited—

(*a*) all monies provided by the Central Government or the State Government or industry partner, as the case may be;

(*b*) all fees and other charges received by the Institute from students;

(*c*) all monies received by the Institute by way of grants, gifts, donations, benefactions, bequests or transfers;

(*d*) all monies received by the Institute from utilisation of intellectual property

arising from research conducted or provision of advisory or consultancy services by it; and

(*e*) all monies received by the Institute in any other manner or from any other source.

(*2*) The Fund of every Institute shall be applied towards meeting the expenses of the Institute including expenses incurred in the exercise of its powers and discharge of its duties under this Act, furtherance of research in the Institute or in collaboration with other educational institutions or industry and for capital investment aimed at the growth and development of the Institute.

(*3*) All monies credited to the Fund of every Institute shall be deposited in such banks or invested in such manner as the Institute may, with approval of the Board, decide.

(*4*) Each Institute shall create a corpus fund for long term sustainability of the Institute, to which shall be credited such per cent. of the net income of the Institute and donations made specifically towards such corpus fund as the Central Government may, in accordance with the provisions of the Income-tax Act, 1961, notify:

43 of 1961.

Provided that the Board may also create endowment funds for specific purpose to which donations may be specifically made.

Accounts and audit.

28. (*1*) Every Institute shall maintain proper accounts and other relevant records and prepare annual statement of accounts including the balance sheet in such form and accounting standard as may be specified by notification, by the Central Government in consultation with the Comptroller and Auditor-General of India.

(*2*) Where the statement of income and expenditure and the balance sheet of the Institute do not comply with the accounting standards, the Institute shall disclose in its statement of income and expenditure and balance sheet, the following, namely:—

(*a*) the deviation from the accounting standards;

(*b*) the reasons for such deviation; and

(*c*) the financial effect, if any, arising out due to such deviation.

(*3*) The accounts of every Institute shall be audited by the Comptroller and Auditor-General of India or any other person in accordance with the provisions of the extant rules and any expenditure incurred by audit team in connection with such audit shall be payable by the Institute to the Comptroller and Auditor-General of India or such person.

(*4*) The Comptroller and Auditor-General of India and any person appointed in connection with the audit of the accounts of any Institute shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts and, in particular shall have the rights to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the Institute.

(*5*) The accounts of every Institute as certified by the Comptroller and Auditor-General of India or any other person appointed in this behalf together with the audit report thereon shall be forwarded annually to the Central Government.

Pension and provident fund.

29. Every Institute may constitute for the benefit of its employees such provident or pension fund or provide such insurance scheme as it may deem fit in such manner and subject to such conditions as may be laid down by the Statutes.

Appointments.

30. All appointments of the staff of every Institute, except that of the Director, shall be made in accordance with the procedure laid down in the Statutes.

Statutes.

31. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(*a*) the formation of departments of teaching;

(*b*) the institution of fellowships, scholarships, exhibitions, medals and prizes;

(*c*) the terms of office and the method of appointment of officers of the Institute;

(*d*) the qualifications of teachers of the Institute;

(*e*) the classification, method of appointment and the determination of the terms and conditions of service of teachers and other staff of the Institute;

(*f*) the constitution of pension, insurance and provident funds for the benefit of the officers, teachers and other staff of the Institute as per the provisions existing from time to time;

(*g*) the constitution, powers and duties of the authorities of the Institute;

(*h*) the establishment and maintenance of halls and hostels;

(*i*) the conditions of residence of students of the Institute and the levying of fees for residence in the halls and hostels and of other charges;

(*j*) the allowances to be paid to the Chairperson and members of the Board;

(*k*) the authentication of the orders and decisions of the Board;

(*l*) the meetings of the Board, the Senate, or any committee, the quorum at such meetings and the procedure to be followed in the conduct of their business; and

(*m*) any other matter as may be considered necessary for the efficient functioning of the Institute.

Statutes how to be made.

32. (*1*) The first Statute of each Institute shall be framed by the Board with the prior approval of the Visitor.

(*2*) The Board may, from time to time, make new or additional Statutes or may amend or repeal the Statutes.

Ordinances.

33. Subject to the provisions of this Act and the Statutes, the Ordinances of every Institute may provide for all or any of the following matters, namely:—

(*a*) the admission of the students to the Institute;

(*b*) the courses of study to be laid down for all degrees and diplomas of the Institute;

(*c*) the conditions under which students shall be admitted to the degree or diploma courses and to the examinations of the Institute, and shall be eligible for degrees and diplomas;

(*d*) the conditions of award of the fellowships, scholarships, exhibitions, medals and prizes;

(*e*) the conditions and mode of appointment and duties of examining bodies, examiners and moderators;

(*f*) the conduct of examinations;

(*g*) the maintenance of discipline among the students of the Institute; and

(*h*) any other matter which by this Act or the Statutes is to be or may be provided for by the Ordinances.

Ordinances how to be made.

34. (*1*) Save as otherwise provided in this section, Ordinances shall be made by the Senate.

(*2*) All Ordinances made by the Senate shall have effect from such date as it may direct, but every Ordinance so made shall be submitted, as soon as may be, to the Board and shall be considered by the Board at its next meeting.

(*3*) The Board shall have power by resolution to modify or cancel any such Ordinance and such Ordinance shall from the date of such resolution stand modified accordingly or cancelled, as the case may be.

Tribunal of Arbitration.

35. (*1*) (*a*) Any dispute arising out of a contract between an Institute and any of its employees shall, at the request of the employee concerned or at the instance of the Institute, be referred to a Tribunal of Arbitration consisting of one member appointed by the Institute, one member nominated by the employee, and an umpire appointed by the Visitor.

(*b*) The decision of the Tribunal shall be final and shall not be questioned in any court.

(*c*) No suit or proceeding shall lie in any court in respect of any matter, which is required by sub-section (*1*) to be referred to the Tribunal of Arbitration.

(*d*) The Tribunal of Arbitration shall have power to regulate its own procedure:

Provided that the Tribunal shall have regard to the principles of natural justice while making such procedure.

(*e*) Nothing in any law for the time being in force relating to arbitration shall apply to arbitrations under this section.

(*2*) Any student or candidate for an examination whose name has been removed from the rolls of the Institute by the orders or resolution of the Director of the Institute and who has been debarred from appearing at the examinations of the Institute for more than one year, may within ten days of the date of receipt of such resolution by him, appeal to the Board who may confirm, modify or reverse the decision of the Director.

(*3*) Any dispute arising out of any disciplinary action taken by the Institute against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-section (*1*) shall, as far as may be, apply to a reference made under this sub-section.

(*4*) Every employee or student of the Institute, notwithstanding anything contained in this Act, have a right to appeal within such time as may be laid down by the Statutes, to the Board of Governors against the decision of any officer or authority of the Institute, as the case may be, and thereupon the Board may confirm, modify or reverse the decision appealed against.

Annual report of Director.

36. (*1*) There shall be attached to every statement of accounts laid before the Board of each Institute, a report by its Director, with respect to—

(*a*) the state of affairs of such Institute;

(*b*) the amount, if any, which it proposes to carry forward to any surplus reserves in its balance sheet;

(*c*) the extent to which understatement or overstatement of any surplus of income over expenditure or any shortfall of expenditure over income has been indicated in the auditor's report and the reasons for such understatement or overstatement;

(*d*) the productivity of research projects undertaken by the Institute measured in accordance with such norms as may be specified by any statutory regulatory authority;

(*e*) appointments of the officers and teachers of the Institute;

(*f*) benchmark and internal standards set by the Institute, including the nature of innovations in teaching, research and application of knowledge.

(*2*) The Director shall also be bound to give the complete information and explanation in its report on every reservation, qualification or adverse remark contained in the auditors' report.

Annual report of each Institute.

37. (*1*) The annual report of each Institute shall be prepared under the direction of the Board, which shall include, among other matters, the steps taken by the Institute towards the fulfilment of its objects and an outcome based assessment of the research being undertaken in such Institute, and be submitted to the Board on or before such date as may be specified and the Board shall consider the report in its annual meeting.

(*2*) The annual report as approved by the Board shall be published and placed on the website of the Institute.

(*3*) The Board shall prepare and release for every year a report, in English and in Hindi, the working of the Institute in the previous year on or before the expiry of nine months from the close of financial year, and a copy of the same, together with an audited statement of accounts showing the income and expenditure for the previous year shall be submitted to the Central Government and the concerned State Government within that stipulated time, and the same may be caused to be laid before each House of Parliament and the concerned State Legislature.

CHAPTER V

CO-ORDINATION FORUM

Co-ordination Forum.

38. (*1*) In order that there may be better co-ordination among the Institutes, the Central Government may, by notification in the Official Gazette, establish, with effect from such date as may be specified in the notification, a central body to be called the Co-ordination Forum for all the Institutes specified in column (5) of the Schedule.

(*2*) The Co-ordination Forum shall consist of the following members, namely:—

(*i*) the Minister in-charge of the Ministry or Department of the Central Government having administrative control of technical education, *ex officio*, as Chairperson;

(*ii*) Secretary to the Government of India, in-charge of the Department of the Central Government having administrative control of technical education, *ex officio*;

(*iii*) four Secretaries in-charge of department looking after Indian Institutes of Information Technology of State Governments in which the Institutes are located, to be nominated by the Chairperson of the Co-ordination Forum, by rotation for two years, *ex officio*;

(*iv*) four Chairpersons of the Institutes, to be nominated by the Chairperson of the Co-ordination Forum, by rotation for two years;

(*v*) the Directors of each of the Institutes, *ex officio*;

(*vi*) four industry partners, to be nominated by the Chairperson of the Co-ordination Forum, not more than one from any Institute, by rotation every two years;

(*vii*) three persons of eminence, of which at least one shall be a woman, in academia, industry or public service, to be nominated by the Co-ordination Forum; and

(*viii*) one representative of All India Council of Technical Education:

Provided that while nominating under clauses (*iii*), (*iv*) and (*vi*), care shall be taken to ensure representation of as many Institutes as possible by selecting Secretaries of State Governments, Chairpersons of the Institutes, and representatives of industry partners from the Board of different Institutes to the extent possible.

(*3*) An officer of the Department of Higher Education, Government of India, not below the rank of Joint Secretary, concerned with technical education, *ex officio*, to act as the Member-Secretary of the Co-ordination Forum.

(*4*) The Co-ordination Forum may, at its discretion, constitute a Standing Committee of the Indian Institute of Information Technology Co-ordination Forum (Public-private Partnership) to assist the Co-ordination Forum in discharge of its duties and responsibilities.

(*5*) The expenditure on the Co-ordination Forum shall be met by the resources pooled by all the Institutes governed by this Act.

Term of office and allowances payable to members of Co-ordination Forum.

39. (*1*) The term of office of a member referred to in clause (*viii*) of sub-section (*2*) of section 38 shall be three years from the date of nomination.

(*2*) The term of office of an *ex officio* member shall continue so long as the member holds the office by virtue of which he is a member.

(*3*) While nominating members to the Co-ordination Forum under clauses (*iii*), (*iv*) and (*vi*) of sub-section (*2*) of section 38, the Chairperson of the Co-ordination Forum shall, to the extent possible, ensure maximum possible representation from each Institute.

(*4*) The members of the Co-ordination Forum shall be entitled to travelling and such other allowances, as may be prescribed, for attending meetings of the Co-ordination Forum or its Committees thereof.

Functions and duties of Co-ordination Forum.

40. (*1*) The Co-ordination Forum shall facilitate the sharing of experience, ideas and concerns with a view to enhancing the performance of all the Institutes.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Co-ordination Forum shall perform the following functions, namely:—

(*a*) advise the Central Government to include a new institution or exclude an existing institution from the Schedule;

(*b*) deliberate on such matters of common interest to Institutes as may be referred to it by any Institute;

(*c*) promote necessary co-ordination and co-operation in the working of the Institutes;

(*d*) recommend to the Central Government, the institution of scholarships including for research and for the benefit of students belonging to the Scheduled Castes, the Scheduled Tribes and other socially and educationally backward classes of citizens; and

(*e*) perform such other functions as may be referred to it by the Central Government or any State Government:

Provided that nothing in this section shall derogate the powers and functions vested by law in the Board or Senate or other authorities of each Institute.

(*3*) The Chairperson of the Co-ordination Forum shall ordinarily preside at the meetings of the Co-ordination Forum and in the absence, the Secretary to the Government of India, in-charge of the Department of the Central Government having administrative control of technical education, shall preside at the meeting.

(*4*) The Co-ordination Forum shall meet at least once in every year, or as and when deemed necessary by the Chairperson of the Co-ordination Forum, and follow such procedure in its meetings, as may be prescribed.

CHAPTER VI

MISCELLANEOUS

Power to make rules.

41. (*1*) The Central Government may, after previous publication, by notification make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the form and manner in which the State Government shall submit proposal to the Central Government under sub-section (*2*) of section 11;

(*b*) the investment proposal of capital in establishment of the Institute and the respective shares under sub-section (*7*) of section 11;

(*c*) the travelling and other allowances payable to members of the Co-ordination Forum under sub-section (*4*) of section 39;

(*d*) the procedure to be followed in the meetings of the Co-ordination Forum under sub-section (*4*) of section 40.

Acts and proceedings not to be invalidated by vacancies, etc.

42. No act of the Co-ordination Forum, or any Institute or Board or Senate or any other body set up under this Act or the Statutes, shall be invalid merely by reason of—

(*a*) any vacancy or defect in the constitution thereof; or

(*b*) any irregularity in its procedure not affecting the merits of the case; or

(*c*) any defect in the selection, nomination or appointment of a person acting as a member thereof.

Returns and information to be provided to Central Government or State Government.

43. (*1*) The Institute shall furnish to the Central Government such returns or other information with respect to its policies or activities as the Central Government may, for the purpose of reporting to Parliament or for the making of policy, from time to time require.

(*2*) The Institute, shall furnish to the State Government in which such Institute is located, such returns or other information with respect to its policies or activities as that Government may, for the purpose of reporting to the concerned State Legislature or for the making of policy, from time to time require.

Power of Central Government to issue directions.

44. The Institute shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.

Institute to be public authority under Right to Information Act.

45. The provisions of the Right to Information Act, 2005 shall apply to each Institute, as if it were a public authority defined in clause (*h*) of section 2 of the Right to Information Act, 2005. 22 of 2005.

Transitional provisions.

46. Notwithstanding anything contained in this Act—

(*1*) (*a*) the Board of every Institute functioning as such immediately before the commencement of this Act shall continue to function until a new Board is constituted for that Institute under this Act, but on the constitution of a new Board under this Act, the members of the Board holding office before such commencement of this Act shall cease to hold office;

(*b*) every Senate constituted in relation to every Institute before the commencement of this Act shall be deemed to be the Senate constituted under this Act until a Senate is constituted under this Act for that Institute, but on the constitution of the new Senate under this Act, the members of the Senate holding office before the commencement of this Act shall cease to hold office;

(*c*) rules, bye-laws and Ordinances of each existing Institute as in force, immediately, before the commencement of this Act, shall continue to apply in the corresponding institute in so far as they are not inconsistent with the provisions of this Act, until the first Statutes and Ordinances are made under this Act;

(*d*) in case there are no such rules, bye-laws or Ordinances, the Statutes, Ordinances, rules and regulations of one of the existing centrally funded Indian Institutes of Information Technology as adopted by the Board of the concerned Institute, shall apply to the Institute in so far as they are not inconsistent with the provisions of the Act until the first Statutes and the Ordinances are made under this Act.

(*2*) The Central Government may, without prejudice to the provisions of sub-section (*1*), if it considers necessary and expedient to do so, by notification, take such measures which may be necessary for the transfer of the existing Institute to the corresponding Institute mentioned under column (5) of the Schedule.

Power to remove difficulties.

47. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions or give such directions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of the period of three years from the date of commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Laying of rules, Statutes, Ordinances and notifications.

48. Every rule, Statute, Ordinance made, and every notification issued, by the Central Government under this Act, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, Statute, Ordinance or notification or both Houses agree that the rule, Statute, Ordinance or notification should not be made or issued, the rule, Statute, Ordinance or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, Statute, Ordinance or notification.

THE SCHEDULE

[*See* section 4(*1*)]

Sl. No.	Name of the State	Name of the existing institute	Location	Name of Institute Incorporated under this Act
(1)	(2)	(3)	(4)	(5)
1.	Andhra Pradesh	Indian Institute of Information Technology, Sri City Chittoor, being a society registered under the Societies Registration Act, 1860 (21 of 1860)	Indian Institute of Information Technology, Sri City, Chittoor	Indian Institute of Information Technology, Sri City, Chittoor.
2.	Assam	Indian Institute of Information Technology, Guwahati, being a society registered under the Societies Registration Act, 1860 (21 of 1860)	Indian Institute of Information Technology, Guwahati	Indian Institute of Information Technology, Guwahati.
3.	Gujarat	Indian Institute of Information Technology, Vadodara, being a society registered under the Societies Registration Act, 1860 (21 of 1860)	Indian Institute of Information Technology, Vadodara	Indian Institute of Information Technology, Vadodara.
4.	Haryana	Indian Institute of Information Technology, Sonepat, being a society registered under the Societies Registration Act, 1860 (21 of 1860)	Indian Institute of Information Technology, Sonepat	Indian Institute of Information Technology, Sonepat.
5.	Himachal Pradesh	Indian Institute of Information Technology, Una, being a society registered under the Societies Registration Act, 1860 (21 of 1860)	Indian Institute of Information Technology, Una	Indian Institute of Information Technology, Una.
6.	Jharkhand	Indian Institute of Information Technology, Ranchi, being a society registered under the Societies Registration Act, 1860 (21 of 1860)	Indian Institute of Information Technology, Ranchi	Indian Institute of Information Technology, Ranchi.
7.	Karnataka	Indian Institute of Information Technology, Dharwad, being a society registered under the Societies Registration Act, 1860 (21 of 1860)	Indian Institute of Information Technology, Dharwad	Indian Institute of Information Technology, Dharwad.
8.	Kerala	Indian Institute of Information Technology, Kottayam, being a society registered under the Societies Registration Act, 1860 (21 of 1860)	Indian Institute of Information Technology, Kottayam	Indian Institute of Information Technology, Kottayam.
9.	Maharashtra	Indian Institute of Information Technology, Nagpur, being a society registered under the Societies Registration Act, 1860 (21 of 1860)	Indian Institute of Information Technology, Nagpur	Indian Institute of Information Technology, Nagpur.
10.	Maharashtra	Indian Institute of Information Technology, Pune, being a society registered under the Societies Registration Act, 1860 (21 of 1860)	Indian Institute of Information Technology, Pune	Indian Institute of Information Technology, Pune.
11.	Manipur	Indian Institute of Information Technology, Senapati, being a society registered under the Societies Registration Act, 1860 (21 of 1860)	Indian Institute of Information Technology, Senapati	Indian Institute of Information Technology, Senapati.
12.	Rajasthan	Indian Institute of Information Technology, Kota, being a society registered under the Societies Registration Act, 1860 (21 of 1860)	Indian Institute of Information Technology, Kota	Indian Institute of Information Technology, Kota.
13.	Tamil Nadu	Indian Institute of Information Technology, Tiruchirapalli, being a society registered under the Societies Registration Act, 1860 (21 of 1860)	Indian Institute of Information Technology, Srirangam, Tiruchirapalli	Indian Institute of Information Technology, Tiruchirapalli.
14.	Uttar Pradesh	Indian Institute of Information Technology, Lucknow, being a society registered under the Societies Registration Act, 1860 (21 of 1860)	Indian Institute of Information Technology, Lucknow	Indian Institute of Information Technology, Lucknow.

(1)	(2)	(3)	(4)	(5)
15.	West Bengal	Indian Institute of Information Technology, Kalyani, being a society registered under the Societies Registration Act, 1860 (21 of 1860)	Indian Institute of Information Technology, Kalyani	Indian Institute of Information Technology, Kalyani.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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CORRIGENDA

In the CENTRAL GOODS AND SERVICES TAX ACT, 2017 (12 OF 2017) as published in the Gazette of India, Extraordinary, Part II, **Section 1, Issue No. 12, dated the 12th April, 2017,—**

Page No.	**Line(s) No.**	**For**	**Read**
18	36	''and State''	''and the State''—
73	20	''authority''	''authority; or''
76	20	''he shall be''	''shall be''
76	44	''summon''	''summons''
86	2	''(Textile and Textile Articles)''	''(Textiles and Textile Articles)''
86	20	''(Textile and Textile Articles)''	''(Textiles and Textile Articles)''

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PUBLISHED BY AUTHORITY

सं॰ 34] नई दिल्ली, बृहस्पतिवार, अगस्त 10, 2017/ श्रावण 19, 1939 (शक)
No. 34] NEW DELHI, THURSDAY, AUGUST 10, 2017/SHRAVANA 19, 1939 (SAKA)

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 10*th August,* 2017/*Shravana* 19, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 9th August, 2017 and is hereby published for general information:—

THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION (AMENDMENT) ACT, 2017

No. 24 OF 2017

[9*th August,* 2017.]

An Act further to amend the Right of Children to Free and Compulsory Education Act, 2009.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Right of Children to Free and Compulsory Education (Amendment) Act, 2017.

(*2*) It shall be deemed to have come into force on the 1st day of April, 2015.

Amendment of section 23.

35 of 2009.

2. In the Right of Children to Free and Compulsory Education Act, 2009, in section 23, in sub-section (*2*), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that every teacher appointed or in position as on the 31st March, 2015, who does not possess minimum qualifications as laid down under

sub-section (*1*), shall acquire such minimum qualifications within a period of four years from the date of commencement of the Right of Children to Free and Compulsory Education (Amendment) Act, 2017.".

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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सं॰ 35] नई दिल्ली, शनिवार, अगस्त 19, 2017/ श्रावण 28, 1939 (शक)
No. 35] NEW DELHI, SATURDAY, AUGUST 19, 2017/SHRAVANA 28, 1939 (SAKA)

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19*th August*, 2017/*Shravana* 28, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 17th August, 2017, and is hereby published for general information:—

THE INDIAN INSTITUTES OF INFORMATION TECHNOLOGY (AMENDMENT) ACT, 2017

NO. 25 OF 2017

[17*th August*, 2017.]

An Act further to amend the Indian Institutes of Information Technology Act, 2014.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Institutes of Information Technology (Amendment) Act, 2017.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 24.

30 of 2014.

2. In section 24 of the Indian Institutes of Information Technology Act, 2014 (hereinafter referred as the principal Act), in clause (*d*) of sub-section (*2*), for the words "Indian Institutes of Information Technology", the words "Indian Institute of Technology" shall be substituted.

Amendment of section 32.

3. In section 32 of the principal Act, in clause (*a*), for the words "Assistant Professor", the words "Assistant Professor or above" shall be substituted.

Amendment of Schedule.

4. In the Schedule to the principal Act, after serial number 4 and the entries relating thereto, the following serial number and entries shall be inserted, namely:—

Sl. No.	Name of the State	Name of the existing Institute	Location	Name of the Institute under this Act
"5.	Andhra Pradesh	Indian Institute of Information Technology, Design and Manufacturing	Kurnool	Indian Institute of Information Technology, Design and Manufacturing, Kurnool.".

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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सं॰ 36] नई दिल्ली, बृहस्पतिवार, अगस्त 24, 2017/ भाद्र 2, 1939 (शक)
No. 36] NEW DELHI, THURSDAY, AUGUST 24, 2017/BHADRA 2, 1939 (SAKA)

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 24*th August,* 2017/*Bhadra* 2, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 23rd August, 2017, and is hereby published for general information:—

THE CENTRAL GOODS AND SERVICES TAX (EXTENSION TO JAMMU AND KASHMIR) ACT, 2017

NO. 26 OF 2017

[23rd *August,* 2017.]

An Act to provide for the extension of the Central Goods and Services Tax Act, 2017 to the State of Jammu and Kashmir.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Central Goods and Services Tax (Extension to Jammu and Kashmir) Act, 2017.

(*2*) It shall be deemed to have come into force on the 8th day of July, 2017.

Extension and amendment of Central Goods and Services Tax Act, 2017.

12 of 2017.

2. (*1*) The Central Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act) and all rules, notifications and orders made thereunder by the Central Government are hereby extended to, and shall be in force in, the State of Jammu and Kashmir.

(*2*) With effect from the date of commencement of this Act, in the principal Act,—

(*a*) in section 1, in sub-section (*2*), the words "except the State of Jammu and Kashmir" shall be omitted;

(*b*) in section 22, in the *Explanation*, in clause (*ii*), after the word "Constitution", the words "except the State of Jammu and Kashmir" shall be inserted;

(*c*) in section 109, in sub-section (*6*),—

(*i*) after the words "each State or Union territory", the words "except for the State of Jammu and Kashmir" shall be inserted;

(*ii*) in the first proviso, for the words "Provided that", the following shall be substituted, namely:—

"Provided that for the State of Jammu and Kashmir, the State Bench of the Goods and Services Tax Appellate Tribunal constituted under this Act shall be the State Appellate Tribunal constituted under the Jammu and Kashmir Goods and Services Tax Act, 2017:

Provided further that";

(*iii*) in the second proviso, for the words "Provided further that", the words "Provided also that" shall be substituted.

Repeal and saving.

3. (*1*) The Central Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017 is hereby repealed. Ord. 3 of 2017.

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

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DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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सं॰ 37] नई दिल्ली, बृहस्पतिवार, अगस्त 24, 2017/ भाद्र 2, 1939 (शक)
No. 37] NEW DELHI, THURSDAY, AUGUST 24, 2017/BHADRA 2, 1939 (SAKA)

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 24*th August*, 2017/*Bhadra* 2, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 23rd August, 2017, and is hereby published for general information:—

THE INTEGRATED GOODS AND SERVICES TAX (EXTENSION TO JAMMU AND KASHMIR) ACT, 2017

NO. 27 OF 2017

[23rd *August*, 2017.]

An Act to provide for the extension of the Integrated Goods and Services Tax Act, 2017 to the State of Jammu and Kashmir.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Integrated Goods and Services Tax (Extension to Jammu and Kashmir) Act, 2017.

(*2*) It shall be deemed to have come into force on the 8th day of July, 2017.

13 of 2017.

Extension and amendment of Integrated Goods and Services Tax Act, 2017.

2. (*1*) The Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act) and all rules, notifications, schemes and orders made thereunder by the Central Government are hereby extended to, and shall be in force in, the State of Jammu and Kashmir.

(*2*) With effect from the date of commencement of this Act, in the principal Act, in section 1, in sub-section (*2*), the words "except the State of Jammu and Kashmir" shall be omitted.

Repeal and saving.

3. (*1*) The Integrated Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017 is hereby repealed. Ord. 4 of 2017.

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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सं॰ 38] नई दिल्ली, बृहस्पतिवार, अगस्त 24, 2017/ भाद्र 2, 1939 (शक)
No. 38] NEW DELHI, THURSDAY, AUGUST 24, 2017/BHADRA 2, 1939 (SAKA)

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 24*th August*, 2017/*Bhadra* 2, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 23rd August, 2017, and is hereby published for general information:—

THE APPROPRIATION (No. 3) ACT, 2017

NO. 28 OF 2017

[23rd *August*, 2017.]

An Act to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services during the financial year ended on the 31st day of March, 2015, in excess of the amounts granted for those services and for that year.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Appropriation (No. 3) Act, 2017.

Issue of Rs. 16207,95,19,246 out of the Consolidated Fund of India to meet certain excess expenditure for the year ended on the 31st March, 2015.

2. From and out of the Consolidated Fund of India, the sums specified in column 3 of the Schedule, amounting in the aggregate to the sum of sixteen thousand two hundred seven crores, ninety-five lakhs, nineteen thousand two hundred and forty-six rupees shall be deemed to have been authorised to be paid and applied to meet the amounts spent for defraying the charges in respect of the services specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 2015, in excess of the amounts granted for those services and for that year.

Appropriation.

3. The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of India under this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 2015.

THE SCHEDULE

(*See* sections 2 and 3)

1	2		3		
No. of Vote	Services and purposes		Excess		
			Voted portion	Charged portion	Total
			Rs.	Rs.	Rs.
	Civil Ministries				
13	Department of Posts	Revenue	70,40,85,092	..	70,40,85,092
20	Ministry of Defence	Revenue	..	*6,68,87,167*	6,68,87,167
		Capital	..	*11,801*	11,801
21	Defence Pensions	Revenue	9435,90,46,976	*4,54,50,236*	9440,44,97,212
26	Defence Services—Research and Development	Revenue	..	*13,498*	13,498
77	Ministry of Power	Capital	6193,40,87,250	..	6193,40,87,250
	Ministry of Railways				
2	Miscellaneous Expenditure (General)	Revenue	70,07,58,724	..	70,07,58,724
3	General Superintendence and Services on Railways	Revenue	..	*23,862*	23,862
7	Repairs and Maintenance of Plant and Equipment	Revenue	..	*46,46,509*	46,46,509
13	Provident Fund, Pension and other Retirement Benefits	Revenue	..	*21,01,513*	21,01,513
14	Appropriation to Funds	Revenue	386,47,94,144	..	386,47,94,144
16	Assets—Acquisition, Construction and replacement—(Railway Safety Fund)	Capital	39,76,12,474	..	39,76,12,474
	TOTAL :		16196,03,84,660	*11,91,34,586*	16207,95,19,246

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DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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CORRIGENDA

In the ANDAMAN AND NICOBAR ISLANDS VALUE ADDED TAX REGULATION, 2017 (6 OF 2017) as published in the Gazette of India, Extraordinary, Part II, **Section 1, issue No. 28, dated the 26th July, 2017,—**

Page No.	Line(s) No.	*For*	*Read*
7	30	"Regulaton"	"Regulation"
64	1	"FIRST SCHEDULE"	"THE FIRST SCHEDULE"

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 24*th August,* 2017/*Bhadra* 2, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 23rd August, 2017, and is hereby published for general information:—

THE APPROPRIATION (No. 4) ACT, 2017

No. 29 OF 2017

[23rd *August,* 2017.]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 2017-18.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (No. 4) Act, 2017. Short title.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of eleven thousand one hundred sixty-six crores and eighteen lakh rupees towards defraying the several charges which will come in course of payment during the financial year 2017-18 in respect of the services specified in column 2 of the Schedule. Issue of Rs. 11166,18,00,000 out of the Consolidated Fund of India for the financial year 2017-18.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appropriation.

THE SCHEDULE

(*See* sections 2 and 3)

1	2	3		
		Sums not exceeding		
No. of Vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Department of Agriculture, Cooperation and Farmers' Welfare ..... Revenue	5,00,000	..	5,00,000
	Capital	12,85,00,000	..	12,85,00,000
2	Department of Agricultural Research and Education ... Revenue	1,00,000	..	1,00,000
3	Department of Animal Husbandry, Dairying and Fisheries ..... Revenue	4,00,000	..	4,00,000
	Capital	1,00,000	..	1,00,000
5	Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH) ..... Revenue	1,00,000	..	1,00,000
6	Department of Chemicals and Petrochemicals ..... Revenue	1,00,000	..	1,00,000
	Capital	360,26,00,000	..	360,26,00,000
7	Department of Fertilisers ..... Revenue	1,00,000	..	1,00,000
9	Ministry of Civil Aviation ..... Revenue	2,00,000	..	2,00,000
11	Department of Commerce ..... Revenue	40,00,00,000	..	40,00,00,000
	Capital	1,39,00,000	..	1,39,00,000
12	Department of Industrial Policy and Promotion ..... Revenue	2000,00,00,000	..	2000,00,00,000
15	Department of Consumer Affairs ..... Revenue	500,00,00,000	..	500,00,00,000
16	Department of Food and Public Distribution ..... Revenue	52,11,00,000	..	52,11,00,000
17	Ministry of Corporate Affairs ..... Revenue	40,01,00,000	..	40,01,00,000
18	Ministry of Culture ..... Revenue	3,00,000	..	3,00,000
	Capital	1,00,000	..	1,00,000
19	Ministry of Defence (Misc.) ..... Revenue	36,82,00,000	..	36,82,00,000
20	Defence Services (Revenue) ..... Revenue	1,00,000	..	1,00,000
21	Capital Outlay on Defence Services ..... Capital	..	*80,00,00,000*	80,00,00,000
23	Ministry of Development of North Eastern Region ..... Revenue	3,00,000	..	3,00,000
26	Ministry of Electronics and Information Technology ..... Revenue	100,00,00,000	..	100,00,00,000
27	Ministry of Environment, Forests and Climate Change ..... Revenue	3,00,000	..	3,00,000
	Capital	..	*67,00,000*	67,00,000
29	Department of Economic Affairs ..... Revenue	98,46,00,000	..	98,46,00,000
	Capital	1,00,000	..	1,00,000
30	Department of Expenditure ..... Revenue	2,00,00,000	..	2,00,00,000
33	Department of Revenue ..... Revenue	1,00,000	..	1,00,000
34	Direct Taxes ..... Capital	2,00,000	..	2,00,000
35	Indirect Taxes ..... Revenue	386,43,00,000	..	386,43,00,000
	Capital	163,57,00,000	..	163,57,00,000
	CHARGED.—*Repayment of Debt* ..... Capital	..	*1,00,000*	1,00,000
40	Transfers to States ..... Revenue	1,00,000	..	1,00,000
41	Ministry of Food Processing Industries ..... Revenue	1,00,000	..	1,00,000
42	Department of Health and Family Welfare ..... Capital	132,91,00,000	..	132,91,00,000
46	Ministry of Home Affairs ..... Revenue	1,00,000	..	1,00,000
47	Cabinet ..... Revenue	1,00,000	..	1,00,000
48	Police ..... Revenue	1,00,000	..	1,00,000
	Capital	1,00,000	..	1,00,000
49	Andaman and Nicobar Islands ..... Capital	1,00,000	..	1,00,000
51	Dadra and Nagar Haveli ..... Revenue	8,40,00,000	..	8,40,00,000
52	Daman and Diu ..... Capital	1,00,000	..	1,00,000
55	Transfers to Puducherry ..... Revenue	17,70,00,000	..	17,70,00,000
57	Department of School Education and Literacy ..... Revenue	4,00,000	..	4,00,000
58	Department of Higher Education ..... Revenue	3,00,000	..	3,00,000
59	Ministry of Information and Broadcasting ..... Revenue	2,00,000	..	2,00,000
60	Ministry of Labour and Employment ..... Capital	19,00,00,000	..	19,00,00,000
64	Ministry of Micro, Small and Medium Enterprises .... Revenue	2,00,000	..	2,00,000
66	Ministry of Minority Affairs ..... Revenue	3,00,000	..	3,00,000

1	2		3		
			Sums not exceeding		
No. of Vote	Services and purposes		Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
70	Ministry of Personnel, Public Grievances and Pensions	Revenue	5,00,000	..	5,00,000
		Capital	8,00,000	..	8,00,000
	CHARGED.—*Central Vigilance Commission*	Revenue	..	*1,00,000*	1,00,000
72	Ministry of Petroleum and Natural Gas	Revenue	7000,00,00,000	..	7000,00,00,000
73	Ministry of Planning	Revenue	1,00,000	..	1,00,000
77	Rajya Sabha	Revenue	1,00,000	..	1,00,000
80	Ministry of Railways	Capital	1,00,000	..	1,00,000
81	Ministry of Road Transport and Highways	Revenue	1,00,000	..	1,00,000
		Capital	1,00,000	..	1,00,000
82	Department of Rural Development	Revenue	6,00,000	..	6,00,000
84	Department of Science and Technology	Revenue	1,00,000	..	1,00,000
85	Department of Biotechnology	Revenue	1,00,000	..	1,00,000
86	Department of Scientific and Industrial Research	Revenue	1,00,000	..	1,00,000
87	Ministry of Shipping	Revenue	1,00,000	..	1,00,000
89	Department of Social Justice and Empowerment	Revenue	1,00,000	..	1,00,000
90	Department of Empowerment of Persons with Disabilities	Revenue	1,00,000	..	1,00,000
91	Department of Space	Revenue	1,00,000	..	1,00,000
		Capital	1,00,000	..	1,00,000
92	Ministry of Statistics and Programme Implementation	Revenue	1,00,000	..	1,00,000
94	Ministry of Textiles	Revenue	4,00,000	..	4,00,000
		Capital	..	*12,00,00,000*	12,00,00,000
95	Ministry of Tourism	Revenue	1,00,000	..	1,00,000
96	Ministry of Tribal Affairs	Revenue	3,14,00,000	*1,00,000*	3,15,00,000
97	Ministry of Urban Development	Revenue	3,00,000	*4,00,00,000*	4,03,00,000
		Capital	1,00,000	..	1,00,000
98	Ministry of Water Resources, River Development and Ganga Rejuvenation	Revenue	93,42,00,000	..	93,42,00,000
99	Ministry of Women and Child Development	Revenue	4,00,000	..	4,00,000
100	Ministry of Youth Affairs and Sports	Revenue	2,00,000	..	2,00,000
	TOTAL:		11069,48,00,000	*96,70,00,000*	11166,18,00,000

DR. G. NARAYANA RAJU,

Secretary to the Govt. of India.

CORRIGENDA

In the INDIAN INSTITUTES OF INFORMATION TECHNOLOGY (PUBLIC-PRIVATE PARTNERSHIP) ACT, 2017 (23 OF 2017) as published in the Gazette of India, Extraordinary, Part II, **Section I, Issue No. 33, dated the 9th August, 2017,—**

Page No.	Line(s) No.	*For*	*Read*
6	19	"of the the Indian"	"of the Indian"
6	22	"from the the Indian"	"of the Indian"

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भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II — खण्ड 1
PART II — Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं॰ 40] नई दिल्ली, शुक्रवार, अगस्त 25, 2017/ भाद्र 3, 1939 (शक)
No. 40] NEW DELHI, FRIDAY, AUGUST 25, 2017/BHADRA 3, 1939 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 25*th August*, 2017/*Bhadra* 3, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 25th August, 2017, and is hereby published for general information:—

THE BANKING REGULATION (AMENDMENT) ACT, 2017

NO. 30 OF 2017

[25*th August*, 2017.]

An Act further to amend the Banking Regulation Act, 1949.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Banking Regulation (Amendment) Act, 2017.

(*2*) It shall be deemed to have come into force on the 4th day of May, 2017.

Insertion of new sections 35AA and 35AB.

10 of 1949.

2. In the Banking Regulation Act, 1949 (hereinafter referred to as the principal Act), after section 35A, the following sections shall be inserted, namely:—

Power of Central Government to authorise Reserve Bank for issuing directions to banking companies to initiate insolvency resolution process.

'35AA. The Central Government may, by order, authorise the Reserve Bank to issue directions to any banking company or banking companies to initiate insolvency resolution process in respect of a default, under the provisions of the Insolvency and Bankruptcy Code, 2016.

31 of 2016.

Explanation.—For the purposes of this section, "default" has the same meaning assigned to it in clause (*12*) of section 3 of the Insolvency and Bankruptcy Code, 2016. 31 of 2016.

Power of Reserve Bank to issue directions in respect of stressed assets.

35AB. (*1*) Without prejudice to the provisions of section 35A, the Reserve Bank may, from time to time, issue directions to any banking company or banking companies for resolution of stressed assets.

(*2*) The Reserve Bank may specify one or more authorities or committees with such members as the Reserve Bank may appoint or approve for appointment to advise any banking company or banking companies on resolution of stressed assets.'.

Amendment of section 51.

3. In section 51 of the principal Act, in sub-section (*1*), after the figures and letter "35A,", the figures and letters "35AA, 35AB," shall be inserted.

Repeal and savings.

4. (*1*) The Banking Regulation (Amendment) Ordinance, 2017 is hereby repealed. Ord. 1 of 2017.

(*2*) Notwithstanding such repeal, anything done or any action taken under the Banking Regulation Act, 1949 as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Act, as amended by this Act. 10 of 1949.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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भारत का राजपत्र
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असाधारण
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भाग II — खण्ड 1
PART II — Section 1
प्राधिकार से प्रकाशित
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सं॰ 41] नई दिल्ली, शनिवार, अगस्त 26, 2017/ भाद्र 4, 1939 (शक)
No. 41] NEW DELHI, SATURDAY, AUGUST 26, 2017/BHADRA 4, 1939 (SAKA)

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 26*th August*, 2017/*Bhadra* 4, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 26th August, 2017, and is hereby published for general information:—

THE PUNJAB MUNICIPAL CORPORATION LAW (EXTENSION TO CHANDIGARH) AMENDMENT ACT, 2017

NO. 31 OF 2017

[26*th August*, 2017.]

An Act further to amend the Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commence-ment.

1. (*1*) This Act may be called the Punjab Municipal Corporation Law (Extension to Chandigarh) Amendment Act, 2017.

(*2*) It shall be deemed to have come into force on the 1st day of July, 2017.

Amendment of Act 45 of 1994.

2. In the Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994, in the Schedule, in Part II, in section 90,—

(*A*) for clause (*a*), the following shall be substituted, namely:—

'(*a*) in sub-section (*1*),—

(*i*) clauses (*b*) and (*c*) shall be omitted;

(*ii*) in clause (*e*), the word "and" occurring at the end, shall be omitted;

(*iii*) after clause (*f*), the following clause shall be inserted, namely:—

"(*g*) a tax on entertainments and amusements." ' ;

(*B*) for clause (*b*), the following shall be substituted, namely:—

'(*b*) in sub-section (*6*),—

(*i*) after the words and figures "Punjab Motor Vehicles Taxation Act, 1924," the words "as applicable to the Union territory of Chandigarh", shall be inserted;

(*ii*) clauses (*d*) and (*e*) shall be omitted.'.

Repeal and savings.

3. (*1*) The Punjab Municipal Corporation Law (Extension to Chandigarh) Amendment Ordinance, 2017 is hereby repealed. Ord. 2 of 2017.

(*2*) Notwithstanding such repeal, anything done or any action taken under the Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Act, as amended by this Act. 45 of 1994.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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PART II — Section 1
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सं॰ 44] नई दिल्ली, रविवार, दिसम्बर 31, 2017/पौष 10, 1939 (शक)
No. 44] NEW DELHI, SUNDAY, DECEMBER 31, 2017/PAUSHA 10, 1939 (SAKA)

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 31*st December,* 2017/*Pausha* 10, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 31st December, 2017 and is hereby published for general information:—

THE NATIONAL CAPITAL TERRITORY OF DELHI LAWS (SPECIAL PROVISIONS) SECOND (AMENDMENT) ACT, 2017

NO. 32 OF 2017

[31*st Decem*ber, 2017.]

An Act further to amend the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the National Capital Territory of Delhi Laws (Special Provisions) Second (Amendment) Act, 2017.

Amendment of long title.

2. In the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011 (hereinafter referred to as the principal Act), in the long title, for the words, figures and letters "for a further period up to the 31st day of December, 2017", the words, figures and letters "for a further period up to the 31st day of December, 2020" shall be substituted.

20 of 2011.

Amendment of Preamble.

3. In the principal Act, in the Preamble,—

(*a*) fourth paragraph shall be omitted;

(*b*) for ninth paragraph and tenth paragraph, the following paragraph shall be substituted, namely:—

"AND WHEREAS more time is required for the regularisation of unauthorised colonies, village *abadi* area and their extensions and special areas;";

(*c*) in the last paragraph, for the words, figures and letters "for a period up to the 31st day of December, 2017", the words, figures and letters "for a period up to the 31st day of December, 2020" shall be substituted.

Amendment of section 1.

4. In the principal Act, in section 1, in sub-section (*4*), in the opening portion, for the words, figures and letters "It shall cease to have effect on the 31st day of December, 2017", the words, figures and letters "It shall cease to have effect on the 31st day of December, 2020" shall be substituted.

Amendment of section 3.

5. In the principal Act, in section 3,—

(*a*) in sub-section (*1*),—

(*i*) the words "hawkers and urban street vendors," shall be omitted;

(*ii*) clause (*b*) shall be omitted;

(*b*) in sub-section (*3*), for the words, figures and letters "till the 31st day of December, 2017", the words, figures and letters "till the 31st day of December, 2020" shall be substituted;

(*c*) in sub-section (*4*), for the words, figures and letters "at any time before the 31st day of December, 2017", the words, figures and letters "at any time before the 31st day of December, 2020" shall be substituted.

Amendment of section 4.

6. In the principal Act, in section 4,—

(*a*) in clause (*a*), for the brackets, letters and word "(*a*), (*b*) and (*c*)", the brackets, letters and word "(*a*) and (*c*)" shall be substituted;

(*b*) in clause (*b*), the words "hawkers and urban street vendors," shall be omitted.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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सं॰ 45] नई दिल्ली, रविवार, दिसम्बर 31, 2017/पौष 10, 1939 (शक)
No. 45] NEW DELHI, SUNDAY, DECEMBER 31, 2017/PAUSHA 10, 1939 (SAKA)

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 31*st December,* 2017/*Pausha* 10, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 31st December, 2017 and is hereby published for general information:—

THE INDIAN INSTITUTES OF MANAGEMENT ACT, 2017

NO. 33 OF 2017

[31*st December*, 2017.]

An Act to declare certain Institutes of management to be institutions of national importance with a view to empower these institutions to attain standards of global excellence in management, management research and allied areas of knowledge and to provide for certain other matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

1. (*1*) This Act may be called the Indian Institutes of Management Act, 2017. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. Whereas the objects of the Institutes mentioned in the Schedule are such as to make them institutions of national importance, it is hereby declared that each such Institute is an institution of national importance. Declaration of certain institutions as institutions of national importance.

Definitions.

3. In this Act, unless the context otherwise requires,—

(*a*) "Academic Council" means the Academic Council referred to in section 15;

(*b*) "Board", in relation to any Institute, means the Board of Governors referred to in sub-section (*1*) of section 10;

(*c*) "Chairperson" means the Chairperson of the Board of Governors of the Institutes appointed under clause (*a*) of sub-section (*2*) of section 10;

(*d*) "Coordination Forum" means the Coordination Forum established under section 29;

(*e*) "corresponding Institute", in relation to an Institute mentioned in column (3) of the Schedule, means an Institute as specified against the said Institute in column (5);

(*f*) "Director", means the Director of the Institute appointed under sub-section (*2*) of section 16;

(*g*) "existing Institute" means any Institute mentioned in column (3) of the Schedule;

(*h*) "Institute" means any Institute mentioned in column (5) of the Schedule;

(*i*) "notification" means a notification published in the Official Gazette and the expression "notify" with its cognate meanings and grammatical variation shall be construed accordingly;

(*j*) "Ordinances" means Ordinances made by the Academic Council under this Act;

(*k*) "prescribed" means prescribed by rules made under this Act;

(*l*) "regulations" means regulations made by the Board;

(*m*) "Schedule" means the Schedule annexed to this Act;

(*n*) "society" means any of the societies registered under the Societies Registration Act, 1860 or the Mysore Societies' Registration Act, 1960 or the Madhya Pradesh Societies Registration Act, 1973 or the Tamil Nadu Societies Registration Act, 1975 or the Jammu and Kashmir Societies Registration Act, 1998 mentioned in column (3) of the Schedule. 21 of 1860. 17 of 1960. 44 of 1973. 27 of 1975. VI of 1998.

CHAPTER II

THE INSTITUTES

Incorporation of Institutes.

4. (*1*) On and from the commencement of this Act, every existing Institute shall be a body corporate by the same name as mentioned in column (5) of the Schedule.

(*2*) Every Institute referred to in column (5) of the Schedule shall have perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

Effect of incorporation of Institutes.

5. On and from the commencement of this Act,—

(*a*) any reference to an existing Institute in any contract or other instrument shall be deemed as a reference to the corresponding Institute;

(*b*) all properties, movable and immovable, of or belonging to every existing Institute shall vest in the corresponding Institute;

(*c*) all rights and debts and other liabilities of every existing Institute shall be transferred to, and be the rights and liabilities of, the corresponding Institute;

(*d*) every person employed by every existing Institute immediately before such commencement shall hold his office or service in the corresponding Institute, with the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held had this Act not been enacted and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by regulations:

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the Institute in accordance with the terms of the contract with the employee, or, if no provision is made therein in this behalf, on payment, to him by the Institute, of a compensation equivalent to three months' remuneration in case of permanent employee and one months' remuneration in the case of other employee:

Provided further that any reference, by whatever form of words, to the Director, and other officers of an existing Institute under any law for the time being in force, or in any instrument or other document, shall be construed as a reference to the Director, and other officers of the corresponding Institutes;

(*e*) every person pursuing, before commencement of this Act, any academic or research course in every existing Institute, shall be deemed to have migrated and registered with the corresponding Institute, on such commencement at the same level of course in the Institute from which such person migrated;

(*f*) all suits and other legal proceedings instituted or which could have been instituted by or against an existing Institute, immediately before the commencement of this Act, shall be continued or instituted by or against the corresponding Institute.

Objects of Institutes.

6. Each Institute shall have the following objects, namely:—

(*a*) to educate and support leaders who can contribute as professional managers, entrepreneurs, and stewards of existing and emerging enterprises in the private, public, and social sectors;

(*b*) to carry out research, publication, consultancy and advisory work to advance new knowledge and innovation and to provide global leadership in management theory and practice:

Provided that research so conducted shall also be directed towards such areas of study which shall enhance inclusive, equitable and sustainable national development goals as enshrined in the objects of the Act;

(*c*) to provide management education of high quality and to promote allied areas of knowledge as well as interdisciplinary studies;

(*d*) to sensitise management education to the vision of inclusive, equitable and sustainable national development goals in order to contribute holistically to Society;

(*e*) to support and develop programmes promoting social and gender equity;

(*f*) to develop educational programmes and faculties that advance the cause of education, teaching and learning, across disciplines;

(*g*) to set-up centres for management studies and allied areas;

(*h*) to support and collaborate with management institutions and other educational institutions in India;

(*i*) to co-operate and collaborate with educational or management institutions in other countries to extend the interests of management education and research.

Powers and functions of Institute.

7. Subject to the provisions of this Act, every Institute shall exercise the following powers and perform the following functions, namely:—

(*a*) to carry out the administration and management of the Institutes;

(*b*) to provide by regulations for the admission of candidates to the various courses of study in conformity with the laws for the time being in force;

(*c*) to specify and conduct courses of study, training and research in management and allied subjects and document, and disseminate knowledge thereof;

(*d*) to evolve innovative management education pedagogy aligned to dynamic global management practices;

(*e*) to conduct examinations and to establish processes for evaluation and performance assessment through a fair and transparent system;

(*f*) to grant degrees, diplomas and other academic distinctions or titles and to institute and award fellowships, scholarships, prizes and medals, honorary awards and other distinctions;

(*g*) to lower the cost of education and to enhance the reach of the education by use of information and communication technology and other innovative methods;

(*h*) to establish and maintain such infrastructure as may be necessary;

(*i*) to determine, specify and receive payment of, fees and other charges as the Institute may deem fit, from students and any other person, institution or body corporate for instruction and other services, including training, consultancy and advisory services, provided by the Institute;

(*j*) to acquire, hold and deal with the property belonging to or vested in the Institute, with the approval of the Board, and in case of immovable property, under prior intimation to the Central Government, for advancing the objects of the Institute subject to the condition that such property is not obtained wholly or partly from the State Government or the Central Government funds:

Provided that where the land for the Institute has been provided free of cost by a State Government or the Central Government such land may be disposed of only with the prior approval of the Central Government;

(*k*) to create academic, administrative, technical, ministerial and other posts under the Institute other than the post of Director of the Institute and to make appointments thereto;

(*l*) to appoint committees for the disposal of any business of the Institute or for tendering advice in any matter pertaining to the Institute;

(*m*) to receive grants, gifts and contributions and to have custody of the funds including internally generated funds of the Institute to meet the expenses, including capital expenditure of the Institute including expenses incurred in the exercise of its powers and discharge of its functions;

(*n*) to create partnership, affiliation and other classes of professional or honorary or technical membership or office as the Institute may consider necessary;

(*o*) to perform such other functions as may be necessary for carrying out the objects of the Institutes;

(*p*) to do all such things and activities, incidental to the attainment of all or any of the objects of the Institute.

Institutes to be open to all irrespective of sex, race, creed, caste or class.

8. (*1*) Every Institute shall be open to all persons irrespective of sex, race, creed, caste or class, and no test or condition shall be imposed as to religious belief or profession in admitting or appointing members, students, teachers or workers or in any other connection whatsoever.

(*2*) No bequest, donation or transfer of any property shall be accepted by any Institute which in the opinion of the Board involves conditions or obligations opposed to the spirit and object of this section.

(*3*) The admission to every academic course or programme of study in each Institute shall be based on merit assessed through transparent and reasonable criteria disclosed through its prospectus, prior to the commencement of the process of admission by such Institute:

Provided that nothing in this section shall be deemed to prevent the Institute from making special provisions for the employment or admission of women, persons with disabilities or for persons belonging to any socially and educationally backward classes of citizens and, in particular, for the Scheduled Castes and the Scheduled Tribes:

Provided further that every such Institute shall be a Central Educational Institution for the purposes of the Central Educational Institutions (Reservation in Admission) Act, 2006. 5 of 2007.

Institute to be not-for-profit legal entity.

9. (*1*) Every Institute shall be a not-for-profit legal entity and no part of the surplus, if any, in revenue of such Institute, after meeting all expenditure in regard to its operations under this Act, shall be invested for any purpose other than for the growth and development of such Institute or for conducting research therein.

(*2*) Every Institute shall strive to raise funds for self-sufficiency and sustainability.

CHAPTER III

THE AUTHORITIES OF INSTITUTES

Board of Governors.

10. (*1*) The Board of Governors of each Institute shall be the principal executive body of that Institute.

(*2*) The Board of each Institute shall consist of the following members, namely:—

(*a*) a Chairperson, from amongst eminent persons distinguished in the field of industry or education or science or technology or management or public administration or such other field, to be appointed by the Board;

(*b*) one nominee of the Central Government having charge of the management education or his representative;

(*c*) one nominee of the respective State Government or representative of such nominees, within whose territorial jurisdiction the Institute is located;

(*d*) four eminent persons, of which at least one shall be a woman, distinguished in the field of education, industry, commerce, social service or public administration, to be nominated by the Board, having such experience and in such manner as may be specified by regulations;

(*e*) two members from the faculty of respective Institutes to be nominated by the Chairperson, in the manner to be laid down by the Board by regulations;

(*f*) one person from the Scheduled Castes or Scheduled Tribes to be nominated by the Board from amongst the members referred to in clauses (*d*), (*e*) and (*g*);

(*g*) up to five persons to be co-opted by the Board from the alumni or the members of society of the existing Institute who have distinguished themselves in the field of management:

Provided that out of such five persons, not more than one member shall be from the Society;

(*h*) three women members to be nominated by the Board from amongst the members referred to in clauses (*d*), (*e*) and (*g*);

(*i*) Director of the Institute, *ex officio* member.

(*3*) The Board may nominate a person to fill up any temporary vacancy, of a member referred to in clauses (*d*) and (*g*) of sub-section (*2*), for a period which may extend to three months.

(*4*) The Board shall designate an officer of the Institute to act as Secretary of the Board.

(*5*) The Chairperson shall have the power to invite any number of experts, not being members of the Board, to attend meetings of the Board, but such invitees shall not be entitled to vote at the meeting.

Powers and functions of Board.

11. (*1*) Subject to the provisions of this Act, the Board of every Institute shall be responsible for the general superintendence, direction and control of the affairs of the Institute and shall have the power to frame or amend or modify or rescind the regulations governing the affairs of the Institute to achieve the objects of the Institute specified in section 6.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Board shall have the following powers, namely:—

(*a*) to take decisions on questions of policy relating to the administration and working of the Institute;

(*b*) to examine and approve the annual budget estimates of the Institute;

(*c*) to examine and approve the plan for development of the Institute and to identify sources of finance for implementation of the plan;

(*d*) to establish departments, faculties or schools of studies and initiate programmes or courses of study at the Institute;

(*e*) to set-up centres of management studies and allied areas within the country under intimation to the Central Government;

(*f*) to grant degrees, diplomas and other academic distinctions or titles, and to institute and award fellowships, scholarships, prizes and medals;

(*g*) to confer honorary degrees in such manner as may be specified by the regulations;

(*h*) to grant honorary awards and other distinctions;

(*i*) to create academic, administrative, technical and other posts and to make appointments thereto:

Provided that the cadre, the pay scales, allowances and term of employment of such posts shall be such as may be determined by the Central Government;

(*j*) to determine, by regulations, the number and emoluments of such posts and to define the duties and conditions of services of the academic, administrative, technical and other staff;

(*k*) to set-up centres of management studies and allied areas outside India in accordance with guidelines laid down by the Central Government from time to time and in accordance with the provisions of the laws for the time being in force in such foreign country;

(*l*) to pay, variable pay to the Director of the Institute on the basis of performance objectives as may be specified by the regulations;

(*m*) to specify by regulations, the fees to be charged for courses of study and examinations in the Institute;

(*n*) to specify by regulations the manner of formation of department of teaching;

(*o*) to specify by regulations the institution of fellowships, scholarships, exhibitions, medals and prizes;

(*p*) to specify by regulations the qualifications, classification, terms of office and method of appointment of the academic, administrative, technical and other staff of the Institute;

(*q*) to specify by regulations the constitution of pension, insurance and provident funds for the benefit of the academic, administrative, technical and other staff;

(*r*) to specify by regulations, the establishment and maintenance of buildings;

(*s*) to specify by regulations, the conditions of residence of students of the Institute and levying of fees for residence in the halls and hostels and of other charges;

(*t*) to specify by regulations, the manner of authentication of the orders and decisions of the Board;

(*u*) to specify by regulations, the quorum for meetings of the Board, the Academic Council or any Committee, and the procedures to be followed in the conduct of their business;

(*v*) to specify by regulations, the financial accountability of the Institute; and

(*w*) to exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the rules made thereunder.

(*3*) Subject to the provisions of this Act, the Board may by regulations, delegate such powers and functions of the Board to the Director as it may deem fit.

(*4*) The Board shall conduct an annual review of the performance of the Director, in the context of the achievements of objects of the Institute:

Provided that such review shall include performance reviews of faculty members of the Institute on such parameters, periodicity and terms of reference as may be determined by the Board.

(*5*) The Board shall, through an independent agency or group of experts, within a period of three years from the date of incorporation of the Institute, and thereafter at least once every three years, evaluate and review the performance of the Institutes, including its faculty, on the parameters of long term strategy and rolling plans of the Institutes and such other parameters as the Board may decide and the report of such review shall be placed in public domain.

(*6*) The qualifications, experience and the manner of selection of the independent agency or group of experts, referred to in sub-section (*5*), shall be such as may be specified by regulations.

(*7*) The report of the evaluation and review under sub-section (*5*) shall be submitted by the Board to the Central Government along with an action taken report thereon.

(*8*) Where in the opinion of the Chairperson or the Director the situation is so emergent that an immediate decision need to be taken in the interest of the Institute, the Chairperson, in consultation with the Director may issue such orders as may be necessary, recording the grounds for his opinion:

Provided that such orders shall be submitted for ratification by the Board in the next meeting.

(*9*) The Board shall in the exercise of its power and discharge of its functions under this Act, be accountable to the Central Government.

Term of office of, vacancies among, and allowances payable to members of Board.

12. (*1*) Save as otherwise provided in this section, the term of office of the Chairperson or any other member of the Board, other than an *ex officio* member, shall be four years from the date of his appointment or nomination:

Provided that the term of office of a member nominated under clause (*e*) of sub-section (*2*) of section 11 shall be two years from the date of his nomination:

Provided further that the Chairperson, or any other member of the Board, other than an *ex officio* member, may be appointed or nominated for a second term:

Provided also that the Chairperson or any other member of the Board, other than an *ex officio* member, shall not be appointed or nominated for more than two consecutive terms.

(*2*) The term of office of an *ex officio* member shall continue so long as he holds the office by virtue of which he is a member of the Board.

(*3*) A member of the Board, other than a nominee of the Central Government or the State Government, who fails to attend three consecutive meetings of the Board without permission of the Chairperson, shall cease to be a member of the Board.

(*4*) A casual vacancy of a member shall be filled up in accordance with the provisions of section 10.

(*5*) The term of office of a member nominated to fill a casual vacancy shall continue for the remainder of the term of the member in whose place he has been so nominated.

(*6*) Members of the Board shall be entitled to such allowances, as may be specified in the regulations, for attending meetings of the Board.

(*7*) The Board shall meet at least once in every three months.

Resignation of Chairperson.

13. The Chairperson may, by notice in writing under his hand addressed to the Board, resign from his office.

Academic Council.

14. (*1*) The Academic Council shall be the principal academic body of every Institute, consisting of the following persons, namely:—

(*a*) Director of the Institute, who shall be the Chairperson of the Academic Council;

(*b*) Deans in charge of academics, research, student affairs and such other functions of the Institute;

(*c*) Chairs of Areas or Programmes, Heads or Coordinators of Faculties or Schools or Centres or Departments, of the Institute;

(*d*) all full time Faculty at the level of Professors and such number of other full time Faculty of the Institute as may be determined by the Board;

(*e)* such members, by invitation of the Board on the recommendation of the Director, who are eminent in the fields of industry, finance, management, public administration and academics.

(*2*) The term of office of an *ex officio* member shall continue so long as he holds the office by virtue of which he is a member.

(*3*) The term of office of a member nominated under clause (*d*) of sub-section (*1*) shall be two years from the date of his nomination.

Power and functions of Academic Council.

15. (*1*) The Academic Council shall perform the following functions, namely:—

(*a*) to specify the criteria and process for admission to courses or programmes of study offered by the Institute;

(*b*) to specify the academic content of programmes and courses of study and undertake modifications therein;

(*c*) to specify the academic calendar, guidelines for conduct of examination and recommend grant of degrees, diplomas and other academic distinctions or titles.

(*2*) The Academic Council shall exercise such other powers and perform such other functions as may be conferred upon it, by this Act or the regulations or by the Board.

Director.

16. (*1*) The Director shall be the Chief Executive Officer of the Institute and shall provide leadership to the Institute and be responsible for implementation of the decisions of the Board.

(*2*) The Director shall be appointed by the Board, on such terms and conditions of service as may be prescribed.

(*3*) The Director shall be appointed out of the panel of names recommended by a search-cum-selection committee to be constituted by the Board, consisting of:—

(*a*) the Chairperson of the Board, who shall be the Chairperson of the search-cum-selection committee;

(*b*) three members chosen from amongst eminent administrators, industrialists, educationists, scientists, technocrats and management specialists:

Provided that where the Board is not satisfied with the recommendations of the search-cum-selection committee, it may ask the search-cum-selection committee to make fresh recommendations.

(*4*) The Director shall exercise the powers and perform the duties as may be assigned to him under this Act or the regulations or as may be delegated to him by the Board:

Provided that the Board may lay down the criteria to be followed by the Director while exercising powers and performing his duties, which shall be evaluated by the Board annually, and if the Board is of the opinion that such criteria has not been followed, then, the Board may, after giving an opportunity of being heard to the Director, initiate action for removal of such Director under sub-section (*7*).

(*5*) The Director shall, except on account of resignation or removal, hold office for a term of five years, from the date on which he enters upon his office.

(*6*) The Director may, by notice in writing under his hand addressed to the Board, through the Chairperson, resign his office at any time.

(*7*) The Board may remove from office the Director, who—

(*a*) has been adjudged as an insolvent; or

(*b*) has been convicted of an offence which, in the opinion of the Board, involves moral turpitude; or

(*c*) has become physically or mentally incapable of acting as a Director; or

(*d*) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Director; or

(*e*) has so abused his position or so conducted himself as to render his continuance in office prejudicial to the public interest:

Provided that the Director shall not be removed from office except by an order made by the Board, after an enquiry instituted by it in which the Director has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(*8*) Where the post of Director is likely to fall vacant on account of completion of tenure, the Board shall initiate the process of appointment nine months prior to the occurrence of such vacancy.

(*9*) Where the post of Director falls vacant on account of any reason, the Board may appoint the senior-most faculty in the institution as the Director in charge till a regular Director is appointed:

Provided that if the senior-most faculty is not willing to hold the post of Director in charge, then the next senior-most willing faculty may be appointed as Director in charge.

Initiation of inquiry.

17. (*1*) The Board may initiate an inquiry as deemed proper against the Institute which has not been functioning in accordance with the provisions and the objectives of the Act:

Provided that such an inquiry shall be conducted by a retired High Court Judge.

(*2*) The Board may, based on the findings of such an inquiry, remove the Director or take any other action deemed fit, and the Insitute shall be bound to comply with such directions within reasonable time.

Custodian of records, etc.

18. The Board may designate any officer or officers of the Institute as the custodian of records, common seal, funds of the Institute and any other property of the Institute.

Role of members of Society.

19. The members of the societies referred to at serial numbers 2 and 3 under column (3) of the Schedule, may be engaged by the respective Boards of corresponding Institutes, for advisory assistance to it, by passing a resolution in that behalf.

Committees and other authorities.

20. (*1*) The Board may, constitute such committees and other authorities of the Institute and specify the duties and functions of each such committees and authorities by regulations.

(*2*) The Board may constitute such *ad hoc* committees as it may deem fit, for proper management of affairs of the Institute.

CHAPTER IV

ACCOUNTS AND AUDIT

Grants by Central Government.

21. For the purpose of enabling the Institutes to discharge their functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to every Institute such sums of money in such manner as it may think fit.

Fund of Institute.

22. (*1*) Every Institute shall maintain a Fund to which shall be credited—

(*a*) all moneys provided by the Central Government;

(*b*) all fees and other charges received by the Institute;

(*c*) all moneys received by the Institute by way of grants, gifts, donations, benefactions, bequests or transfers;

(*d*) all moneys received by the Institute from utilisation of intellectual property arising from research conducted or rendering advisory or consultancy services by it; and

(*e*) all moneys received by the Institute in any other manner or from any other source.

(*2*) All moneys credited to the Fund of every Institute shall be deposited in such banks or invested in such manner as may be laid down by the Board by regulations.

(*3*) Each Institute shall create a corpus fund for long term sustainability of the Institute, to which shall be credited such per cent. of the net income of the Institute and donations made specifically towards such corpus fund as the Central Government may in accordance with the provisions of the Income tax Act, 1961, notify: 43 of 1961.

Provided that the Board may also create endowment funds for specific purposes to which donations may be specifically made.

(*4*) The fund of any Institute shall be applied in such manner and for such purposes as may be specified by the regulations.

Accounts and audit.

23. (*1*) Every Institute shall maintain proper accounts including income and expenditure statements, internal audit report and statement audited by internal auditor specifying investments and other relevant records and prepare annual statement of accounts including the balance sheet in such form and as per such accounting standard as may be specified by notification by the Central Government in consultation with the Comptroller and Auditor-General of India.

(*2*) Where the statement of income and expenditure and the balance sheet of the Institute do not comply with the accounting standards, the Institute shall disclose in its statement of income and expenditure and balance sheet, the following, namely:—

(*a*) the deviation from the accounting standards;

(*b*) the reasons for such deviation; and

(*c*) the financial effect, if any, arising out of such deviation.

(*3*) The accounts of every Institute shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by audit team in connection with such audit shall be payable by the Institute to the Comptroller and Auditor-General of India.

(*4*) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Institute shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the Institute.

(*5*) The accounts of every Institute as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament in accordance with such procedure as may be laid down by the Central Government.

Books of account to be maintained by Institute.

24. Every Institute shall keep proper updated books of account with respect to—

(*a*) all sums of money received and expended by it and the matters in respect of which receipt and expenditure takes place;

(*b*) the assets and liabilities of the Institute;

(c) the properties, movable and immovable of the Institute.

Explanation.—For the purposes of this section, if books of account give a true and fair view of the state of affairs of the Institute and its transactions, it shall be deemed as proper books of account with respect to the matters specified therein.

Appointment of auditors.

25. (*1*) The Board of every Institute shall, prior to the end of every financial year, and without prejudice to the provisions contained in the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971 or any other law for the time being in force containing provisions for audit of accounts by the Institutes, appoint such auditors including the internal auditor, on such remuneration as it thinks appropriate, to scrutinise the balance sheet and the statement of income and expenditure of such Institute:

56 of 1971.

Provided that the Board shall change the auditors after every four years.

(*2*) The Board of every Institute shall constitute an Audit Committee to provide an expert advice on effectiveness of internal control system, risk management and audit report to the Board.

(*3*) The auditor appointed under sub-section (*1*) or any person employed by him shall not have any direct or indirect interest, whether pecuniary or otherwise, in any matter concerning or related to the administration or functions of the Institute.

Annual report of Director.

26. (*1*) There shall be attached to every statement of accounts laid before the Board of each Institute under section 27, a report, by its Director, with respect to—

(*a*) the state of affairs of such Institute;

(*b*) the amounts, if any, which it proposes to carry to any surplus reserves in its balance sheet;

(*c*) the extent to which understatement or overstatement of any surplus of income over expenditure or any shortfall of expenditure over income has been indicated in the auditor's report and the reasons for such understatement or overstatement;

(*d*) the productivity of research projects undertaken by the Institute measured in accordance with such norms as may be specified by the Board;

(*e*) appointments of the officers and faculty members of the Institute;

(*f*) performance indicators and internal standards set by the Institute, including the nature of innovations in teaching, research and application of knowledge.

(*2*) The report of the Director shall also include a statement showing the names of the five officers including faculty members and other employees of the Institute who received the highest remuneration (including allowances and other payments made to such employees) during the financial year and the contributions made by such employee during the financial year.

(*3*) The statement referred to in sub-section (*2*) shall indicate whether any such employee is a relative of any member of the Board or Academic Council of the Institute and if so, the name of such member; and such other particulars as may be determined by the Board.

(*4*) The Director shall also be bound to give the complete information and explanations in the report referred to in sub-section (*1*) on every reservation, qualification or adverse remark contained in the auditors' report.

Board to consider statement of accounts.

27. (*1*) The statement of accounts, including the balance sheet and the statement of income and expenditure, the auditor's report, the report of the Director and other documents required to be annexed or attached with such statement, shall be brought before the Board of concerned Institute in its meeting not later than three months, from the conclusion of the financial year.

(*2*) A copy of every statement of accounts referred to in sub-section (*1*) shall be sent to every member of the Board not less than twenty-one days before the date of the meeting.

(*3*) The statement of accounts referred to in sub-section (*1*) shall on its approval by the Board, be published on the website of the Institute.

Annual report of Institute.

28. (*1*) The annual report of every Institute shall be prepared under the directions of the Board, which shall include, among other matters, steps taken by the Institute towards the fulfilment of its objects and an outcome based assessment of the research being undertaken in such Institute.

Explanation.—For the purposes of this sub-section, the expression "outcome based assessment of research" shall mean an elaboration and analysis of the research conducted and the qualitative and quantitative outcomes of such research along with its impact factor and social outcomes.

(*2*) The annual report prepared under sub-section (*1*) shall be submitted to the Board on or before such date as may be specified by the Board who shall consider the report in its meeting.

(*3*) The annual report on its approval by the Board shall be published on the website of the Institute.

(*4*) The annual report of each Institute shall be submitted to the Central Government who shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

CHAPTER V

COORDINATION FORUM

Establishment of Coordination Forum.

29. (*1*) With effect from such date as the Central Government may, by notification, specify in this behalf, there shall be established a Coordination Forum for all the Institutes.

(*2*) The Coordination Forum shall consist of the following members, namely:—

(*a*) an eminent person to be seleted by a Search-cum-Selection Committee as may be constituted by the Coordination Forum, as chairperson:

Provided that the Coordination Forum may select one of its members to act as the chairperson till the chairperson is appointed;

(*b*) the Secretary to the Government of India, in charge of the Ministry or Department of the Central Government having administrative control of management education, member—*ex officio*;

(*c*) two Secretaries in charge of management education of State Governments in which the Institutes are located, by rotation, each year, member—*ex officio*;

(*d*) four Chairpersons of Institutes, to be nominated by the Chairperson of the Coordination Forum, by rotation for two years;

(*e*) the Director of each Institute, member—*ex officio*;

(*f*) five persons of eminence, of which at least one shall be a woman, in academia or public service, to be selected by a sub-committee constituted by the Coordination Forum.

(*3*) The term of office of a member referred to in clause (*f*) of sub-section (*2*) shall be three years from the date of his nomination.

(*4*) The non-official members of the Coordination Forum shall be entitled to such travelling and other allowances, as may be prescribed.

(*5*) The Director of the host Institute where the meeting of the Coordination Forum takes place shall be the Member Secretary of the Coordination Forum and shall continue to be the Member-Secratary till a new host Institute is selected.

Functions of Coordination Forum.

30. (*1*) The Coordination Forum shall facilitate the sharing of experiences, ideas and concerns with a view to enhancing the performance of all Institutes.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Coordination Forum shall perform the following functions, namely:—

(*a*) recommend to the Central Government, the institution of scholarships including for research and for the benefit of students belonging to the Scheduled Castes, the Scheduled Tribes and other socially and educationally backward classes of citizens;

(*b*) deliberate on such matters of common interest to Institutes as may be referred to it by any Institute;

(*c*) promote necessary coordination and co-operation in the working of the Institutes;

(*d*) review the achievement of policy objectives; and

(*e*) perform such other functions as may be referred to it by the Central Government.

(*3*) The Coordination Forum may constitute such committees as it may consider necessary for carrying out its functions under this section.

(*4*) The Chairperson of the Coordination Forum shall ordinarily preside at the meetings of the Coordination Forum and in his absence, any other member chosen by the members present amongst themselves at the meeting, shall preside at the meeting.

(*5*) The Coordination Forum shall submit a report on its functions under sub-section (*2*) to the Central Government.

(*6*) The Coordination Forum shall meet at least once in a calendar year.

(*7*) At each meeting of the Coordination Forum, the host institute, which would host the next meeting, shall be selected:

Provided that no Institute shall host the meeting for more than two consecutive years.

CHAPTER VI

MISCELLANEOUS

Acts and proceedings not to be invalidated by vacancies, etc.

31. No act of any Institute or the Board or the Academic Council or any other body set-up under this Act or the regulations, shall be invalid merely by reason of—

(*a*) any vacancy or defect in the constitution thereof; or

(*b*) any irregularity in its procedure not affecting the merits of the case; or

(*c*) any defect in the selection, nomination or appointment of a person acting as a member thereof.

Returns and information to be provided to Central Government.

32. Every Institute shall furnish to the Central Government such returns or other information with respect to its policies or activities as the Central Government may, for the purpose of reporting to the Parliament or for the making of policy, from time to time, require.

Institute to be public authority under Right to Information Act.

33. (*1*) The provisions of the Right to Information Act, 2005 shall apply to each Institute, including Institutes established in public-private partnership, as if it were a public authority established by notification issued or order made under clause (*h*) of section 2 of the Right to Information Act, 2005. 22 of 2005.

(*2*) A copy of every notification proposed to be issued or order to be made under the Act referred to in sub-section (*1*), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or order or both Houses agree in making any modification in the notification or order, the notification or order shall not be issued or made, as the case may be, shall be issued or made only in such modified form as may be agreed upon by both the Houses.

Power of Central Government to make rules.

34. (*1*) The Central Government may, by notification, make rules, for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) such other powers and duties of the Board under clause (*w*) of sub-section (*2*) of section 11;

(*b*) the term and conditions of service of the Director under sub-section (*2*) of section 16;

(*c*) the travelling and such other allowances payable to the members of the Coordination Forum for attending its meetings or its Committees under sub-section (*4*) of section 29;

(*d*) any other matter which is to be or may be, prescribed or in respect of which provision is to be made by the Central Government by rules.

Power to make regulations.

35. (*1*) The Board may, by notification, make regulations not inconsistent with this Act and the rules made thereunder to carry out the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) tenure, remuneration and terms and conditions of employees of existing Institute under clause (*d*) of section 5;

(*b*) admission of candidates to the various courses of study under clause (*b*) of section 7;

(*c*) the manner of nominating the members from the faculty of respective Institutes under clause (*e*) of sub-section (*2*) of section 10;

(*d*) the conferment of honorary degrees under clause (*g*) of sub-section (*2*) of section 11;

(*e*) the number of posts, emoluments and the duties and conditions of service of the academic, administrative, technical and other staff under clause (*j*) of sub-section (*2*) of section 11;

(*f*) determine performance objectives on the basis of which variable pay may be paid to the Director under clause (*i*) of sub-section (*2*) of section 11;

(*g*) to specify by regulations, the fees to be charged for course of study and examinations in the Institute under clause (*m*) of sub-section (*2*) of section 11;

(*h*) the manner of formation of Departments of teaching under clause (*n*) of sub-section (*2*) of section 11;

(*i*) the institution of fellowships, scholarships, exhibitions, medals and prizes under clause (*o*) of sub-section (*2*) of section 11;

(*j*) the qualifications, classification, terms of office and method of appointment of the academic, administrative, technical and other staff of the Institute under clause (*p*) of sub-section (*2*) of section 11;

(*k*) the constitution of pension, insurance and provident funds for the benefit of the academic, administrative, technical and other staff under clause (*q*) of sub-section (*2*) of section 11;

(*l*) the establishment and maintenance of buildings under clause (*r*) of sub-section (*2*) of section 11;

(*m*) the conditions of residence of students of the Institute and levying of fees for residence in the halls and hostels and of other charges under clause (*s*) of sub-section (*2*) of section 11;

(*n*) the manner of authentication of the orders and decisions of the Board under clause (*t*) of sub-section (*2*) of section 11;

(*o*) the meetings of the Board, the Academic Council or any Committee, the quorum at such meetings and the procedure to be followed in the conduct of their business under clause (*u*) of sub-section (*2*) of section 11;

(*p*) the financial accountability of the Institute under clause (*v*) of sub-section (*2*) of section 11;

(*q*) delegate such powers and functions of the Board to the Director under sub-section (*3*) of section 11;

(*r*) the qualifications, experience and the manner of selection of the independent agency or group of experts under sub-section (*5*) of section 11;

(*s*) allowances of the members of the Board for attending meetings under sub-section (*6*) of section 12;

(*t*) such other powers and functions of the Academic Council under sub-section (*2*) of section 15;

(*u*) the powers and duties of the Director under sub-section (*4*) of section 16;

(*v*) constitution of such committees and other authorities of the Institute and their duties and functions under sub-section (*1*) of section 20;

(*w*) the manner of depositing or investing the moneys credited to the Fund of every Institute under sub-section (*2*) of section 21;

(*x*) the manner of application of the Fund of the Institute under sub-section (*4*) of section 21; and

(*y*) any other matter which is to be or may be, specified by regulations.

Ordinances how made.

36. (*1*) Save as otherwise provided in this section, Ordinance shall be made by the Academic Council.

(*2*) Subject to the provisions of this Act and the rules and regulations made thereunder, the Ordinances of every Institute may provide for all or any of the following matters, namely:—

(*a*) the admission of students to the Institute;

(*b*) the courses of study to be laid down for all degrees and diplomas of the Institute;

(*c*) the conditions under which students shall be admitted to the degree or diploma courses and to the examinations of the Institute, and shall be eligible for degrees and diplomas;

(*d*) the conditions of award of the fellowships, scholarships, exhibitions, medals and prizes;

(*e*) the conditions and model of appointment and duties of examining bodies, examiners and moderators;

(*f*) the conduct of examinations;

(*g*) the maintenance of discipline among the students of the Institute; and

(*h*) any other matter which is to be or may be provided for by the Ordinances.

(*3*) All Ordinances made by the Academic Council shall have effect from such date as it may direct, but every Ordinance so made shall be submitted, as soon as may be, to the Board and shall be considered by the Board at its next meeting.

(*4*) The Board shall have power by resolution to modify or cancel any such Ordinance and such Ordinance shall from the date of such resolution stand modified accordingly or cancelled, as the case may be.

Rules and regulations to be laid before Parliament.

37. Every rule made by the Central Government and the first regulation made by the Board under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation shall not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Power to remove difficulties.

38. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of the period of three years from the date of commencement of this Act.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Transitional provisions.

39. (*1*) Notwithstanding anything contained in this Act:—

(*a*) the Board of every Institute functioning as such immediately before the commencement of this Act shall continue to so function until a new Board is constituted for that Institute under this Act, but on the constitution of a new Board under this Act, the members of the Board holding office before such constitution shall cease to hold office;

(*b*) every Academic Council or Faculty Council, as the case may be, constituted in relation to every Institute before the commencement of this Act shall be deemed to be the Academic Council constituted under this Act until an Academic Council is constituted under this Act for that Institute, but on the constitution of the new Academic Council under this Act, the members of the Academic Council or Faculty Council, as the case may be, holding office before such constitution shall cease to hold office;

(*c*) until the first regulations are made under this Act, the rules, and bye-laws of each Institute as in force, immediately before the commencement of this Act shall continue to apply to the Institute in so far as they are not inconsistent with the provisions of this Act.

(*2*) The Central Government may, without prejudice to the provisions of this Act, if it considers so necessary and expedient, by notification, take such measures, which may be necessary for the smooth transfer of the existing Institute to the corresponding Institute.

THE SCHEDULE

[*See* section 4(*1*)]

Sl. No.	Name of the State	Name of the existing Institute	Location	Name of Institute incorporated under this Act
(1)	(2)	(3)	(4)	(5)
1.	West Bengal	Indian Institute of Management Calcutta, a Society registered under the Societies Registration Act, 1860 (21 of 1860).	Kolkata	Indian Institute of Management, Calcutta.
2.	Gujarat	Indian Institute of Management Ahmedabad, a Society registered under the Societies Registration Act, 1860 (21 of 1860).	Ahmedabad	Indian Institute of Management, Ahmedabad.
3.	Karnataka	Indian Institute of Management Bangalore, a Society registered under the Mysore Societies' Registration Act, 1960 (17 of 1960).	Bengaluru	Indian Institute of Management, Bangalore.
4.	Uttar Pradesh	Indian Institute of Management Lucknow, a Society registered under the Societies Registration Act, 1860 (21 of 1860).	Lucknow	Indian Institute of Management, Lucknow.
5.	Madhya Pradesh	Indian Institute of Management Indore, a Society registered under the Madhya Pradesh Societies Registration Act, 1973 (44 of 1973).	Indore	Indian Institute of Management, Indore.
6.	Kerala	Indian Institute of Management Kozhikode, a Society registered under the Societies Registration Act, 1860 (21 of 1860).	Kozhikode	Indian Institute of Management, Kozhikode.
7.	Meghalaya	Rajiv Gandhi Indian Institute of Management Shillong, a Society registered under the Societies Registration Act, 1860 (21 of 1860).	Shillong	Indian Institute of Management, Shillong.
8.	Haryana	Indian Institute of Management Rohtak, a Society registered under the Societies Registration Act, 1860 (21 of 1860).	Rohtak	Indian Institute of Management, Rohtak.
9.	Jharkhand	Indian Institute of Management Ranchi, a Society registered under the Societies Registration Act, 1860 (21 of 1860).	Ranchi	Indian Institute of Management, Ranchi.
10.	Chhattisgarh	Indian Institute of Management Raipur, a Society registered under the Societies Registration Act, 1860 (21 of 1860).	Raipur	Indian Institute of Management, Raipur.
11.	Tamil Nadu	Indian Institute of Management Tiruchirappalli, a Society registered under the Tamil Nadu Societies Registration Act, 1975.	Tiruchirappalli	Indian Institute of Management, Tiruchirappalli.

(1)	(2)	(3)	(4)	(5)
12.	Uttarakhand	Indian Institute of Management Kashipur, a Society registered under the Societies Registration Act, 1860 (21 of 1860).	Kashipur	Indian Institute of Management, Kashipur.
13.	Rajasthan	Indian Institute of Management Udaipur, a Society registered under the Societies Registration Act, 1860 (21 of 1860).	Udaipur	Indian Institute of Management, Udaipur.
14.	Punjab	Indian Institute of Mangement Amritsar, a Society resigtered under the Societies Registration Act, 1860 (21 of 1860).	Amritsar	Indian Institute of Management, Amritsar.
15.	Himachal Pradesh H.P.	Indian Institute of Management Sirmaur, a Society registered under the Societies Registration Act, 1860 (21 of 1860).	Sirmaur	Indian Institute of Management, Sirmaur.
16.	Odisha	Indian Institute of Management Sambalpur, a Society registered under the Societies Registration Act, 1860 (21 of 1860).	Sambalpur	Indian Institute of Management, Sambalpur.
17.	Andhra Pradesh	Indian Institute of Management Visakhapatnam, a Society registered under the Societies Registration Act, 1860 (21 of 1860).	Visakhapatnam	Indian Institute of Management, Visakhapatnam.
18.	Maharashtra	Indian Institute of Management Nagpur, a Society Registered under the Societies Registration Act, 1860 (21 of 1860).	Nagpur	Indian Institute of Management, Nagpur.
19.	Bihar	Indian Institute of Management Bodh-Gaya, a Society registered under the Societies Registration Act, 1860 (21 of 1860).	Bodhgaya	Indian Institute of Management, Bodhgaya.
20.	Jammu and Kashmir	Indian Institute of Management Jammu, a Society registered under the Jammu and Kashmir Societies Registration Act, 1998 (VI of 1998.)	Jammu	Indian Institute of Management, Jammu.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

CORRIGENDUM

In the FINANCE ACT, 2017 (7 of 2017) as published in the Gazette of India, Extraordinary, Part II, Section 1, Issue No. 7, dated the 31st April, 2017,—

Page No.	Line(s) Nos.	*For*	*Read*
55	6	"substituted"	"inserted"
61	26	' "SE.'	' "SDD.'
61	36	"In the Income Tax Act, 1962,—"	"In the Income-tax Act, 1961,—"

———

CORRIGENDUM

In the Central Goods and Services Tax (Extension to Jammu and Kashmir) Act, 2017 (26 of 2017) Published in the Gazette of India, Extraordinary, Part II, section 1, dated 24th August, 2017, Issue No. 36, at page No. 2 in line No. 4, *for* "in clause (*ii*),", *read* "in clause (*iii*),".

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CORRIGENDUM

In the GOODS AND SERVICES TAX (COMPENSATION OF STATES) AMENDMENT ORDINANCE, 2017 (Ord. 5 of 2017) as published in the Gazette of India, Extraordinary, Part II, Section 1, Issue No. 42, dated the 2nd September 2017,—

Page No.	Line(s) Nos.	*For*	*Read*
2	1 (Marginal heading)	"13 of 2017."	"15 of 2017."

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ORDINANCES, 2017

1. The Banking Regulation (Amendment) Ordinance, 2017.
2. The Punjab Municipal Corporation Law (Extension to Chandigarh) Ordinance, 2017.
3. The Central Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017.
4. The Integrated Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017
5. The Goods and Services Tax (Compensation to States) Amendment Ordinance, 2017.
6. The Indian Forest (Amendment) Ordinance, 2017.
7. The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2017.

रजिस्ट्री सं॰ डी॰ एल॰—(एन)04/0007/2003—17 REGISTERED NO. DL—(N)04/0007/2003—17

भारत का राजपत्र
The Gazette of India

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सं॰ 18] नई दिल्ली, बृहस्पतिवार, मई 4, 2017/ वैशाख 14, 1939 (शक)
No. 18] NEW DELHI, THURSDAY, MAY 4, 2017/VAISAKHA 14, 1939 (SAKA)

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 4*th May,* 2017*/Vaisakha* 14, 1939 *(Saka)*

THE BANKING REGULATION (AMENDMENT) ORDINANCE, 2017

No. 1 OF 2017

Promulgated by the President in the Sixty-eighth Year of the Republic of India.

An Ordinance further to amend the Banking Regulation Act, 1949.

WHEREAS the stressed assets in the banking system have reached unacceptably high levels and urgent measures are required for their resolution;

AND WHEREAS the Insolvency and Bankruptcy Code, 2016 has been enacted to consolidate and amend the laws relating to reorganisation and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximisation of value of assets to promote entrepreneurship, availability of credit and balance the interest of all the stakeholders;

AND WHEREAS the provisions of Insolvency and Bankruptcy Code, 2016 can be effectively used for the resolution of stressed assets by empowering the banking regulator to issue directions in specific cases;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (*1*) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (*1*) This Ordinance may be called the Banking Regulation (Amendment) Ordinance, 2017.

(*2*) It shall come into force at once.

Insertion of new sections 35AA and 35AB.

2. In the Banking Regulation Act, 1949, after section 35A, the following sections shall be inserted, namely:— 10 of 1949.

Power of Central Government to authorise Reserve Bank for issuing directions to banking companies to initiate insolvency resolution process.

'35AA. The Central Government may by order authorise the Reserve Bank to issue directions to any banking company or banking companies to initiate insolvency resolution process in respect of a default, under the provisions of the Insolvency and Bankruptcy Code, 2016. 31 of 2016.

Explanation.—For the purposes of this section, "default" has the same meaning assigned to it in clause (*12*) of section 3 of the Insolvency and Bankruptcy Code, 2016. 31 of 2016.

Power of Reserve Bank to issue directions in respect of stressed assets.

35AB. (*1*) Without prejudice to the provisions of section 35A, the Reserve Bank may, from time to time, issue directions to the banking companies for resolution of stressed assets.

(*2*) The Reserve Bank may specify one or more authorities or committees with such members as the Reserve Bank may appoint or approve for appointment to advise banking companies on resolution of stressed assets.'.

PRANAB MUKHERJEE,
President.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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सं॰ 25] नई दिल्ली, शनिवार, जुलाई 1, 2017/ आषाढ़ 10, 1939 (शक)
No. 25] NEW DELHI, SATURDAY, JULY 1, 2017/ASHADHA 10, 1939 (SAKA)

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 1*st July,* 2017/*Ashadha* 10, 1939 *(Saka)*

THE PUNJAB MUNICIPAL CORPORATION LAW (EXTENSION TO CHANDIGARH) AMENDMENT ORDINANCE, 2017

No. 2 OF 2017

Promulgated by the President in the Sixty-eighth Year of the Republic of India.

An Ordinance further to amend the Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994.

WHEREAS the goods and services tax is to be introduced in the country with effect from 1st July, 2017;

AND WHEREAS entertainment tax and entertainment duty have been levied by the Central Government in the Union territory of Chandigarh under the Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994;

AND WHEREAS by the Constitution (One Hundred and First Amendment) Act, 2016, entry 62 of List-II-State List of the Seventh Schedule to the Constitution has been amended to levy taxes on entertainments and amusements to the extent levied and collected by a Panchayat or Municipality or a Regional Council or a District Council;

AND WHEREAS the Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994, is required to be suitably amended to empower the Municipal Corporation of Chandigarh to levy and collect taxes on entertainments and amusements in light of the said amendments;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (*1*) This Ordinance may be called the Punjab Municipal Corporation Law (Extension to Chandigarh) Amendment Ordinance, 2017.

(*2*) It shall come into force at once.

Amendment of section 90.

2. In the Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994, in section 90,— 45 of 1994.

(*i*) In sub-section (*1*),—

(*a*) In clause (*e*), the word "and" occurring at the end, shall be omitted;

(*b*) After clause (*f*), the following clauses shall be inserted, namely:—

"(*g*) a tax under the Punjab Entertainment Tax (Cinematograph shows) Act, 1954, as applicable to the Union territory of Chandigarh to be collected from the proprietor of the premises where a public cinematograph exhibition is held within the local area of the city; and

(*h*) a tax under the Punjab Entertainments Duty Act, 1955, as applicable to the Union territory of Chandigarh to be collected from every person admitted to an entertainment within the local area of the city.";

(*ii*) in sub-section (*6*), clauses (*d*) and (*e*) shall be omitted.

PRANAB MUKHERJEE,
President.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 8th July, 2017/*Ashadha* 17, 1939 (*Saka*)

THE CENTRAL GOODS AND SERVICES TAX (EXTENSION TO JAMMU AND KASHMIR) ORDINANCE, 2017

No. 3 OF 2017

Promulgated by the President in the Sixty-eighth Year of the Republic of India.

An Ordinance to provide for the extension of the Central Goods and Services Tax Act, 2017 to the State of Jammu and Kashmir.

WHEREAS the Central Goods and Services Tax has been introduced in the whole of India except the State of Jammu and Kashmir with effect from the 22nd day of June, 2017;

AND WHEREAS the Legislative Assembly of the State of Jammu and Kashmir has passed the resolution adopting the provisions of the Constitution (One Hundred and First Amendment) Act, 2016;

AND WHEREAS the Constitution (Application to Jammu and Kashmir) Amendment Order, 2017 has been issued by the President extending the provisions of the Constitution (One Hundred and First Amendment) Act, 2016 to the State of Jammu and Kashmir;

AND WHEREAS the State of Jammu and Kashmir has proposed to implement the goods and services tax in the said State with effect from the 8th day of July, 2017;

AND WHEREAS the provisions of the Central Goods and Services Tax Act, 2017 are required to be extended to the State of Jammu and Kashmir;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (*1*) This Ordinance may be called the Central Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017.

(*2*) It shall come into force at once.

Extension and amendment of the Central Goods and Services Tax Act, 2017.

2. (*1*) The Central Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act) and all rules, notifications and orders made thereunder by the Central Government are hereby extended to, and shall be in force in, the State of Jammu and Kashmir. 12 of 2017.

(*2*) With effect from the date of commencement of this Ordinance, in the principal Act,—

(*a*) in section 1, in sub-section (*2*), the words "except the State of Jammu and Kashmir" shall be omitted;

(*b*) in section 22, in the *Explanation*, in clause (*iii*), after the word "Constitution" the words "except the State of Jammu and Kashmir" shall be inserted;

(*c*) in section 109, in sub-section (*6*),—

(*i*) after the words "each State or Union territory", the words "except for the State of Jammu and Kashmir" shall be inserted;

(*ii*) in the first proviso, for the words "Provided that", the following shall be substituted, namely:—

"Provided that for the State of Jammu and Kashmir, the State Bench of the Goods and Services Tax Appellate Tribunal constituted under this Act shall be the State Appellate Tribunal constituted under the Jammu and

Kashmir Goods and Services Tax Act, 2017:

Provided further that'';

(*iii*) in the second proviso, for the words ''Provided further that'', the words ''Provided also that'' shall be substituted.

PRANAB MUKHERJEE,
President.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 8th July, 2017/*Ashadha* 17, 1939 (*Saka*)

THE INTEGRATED GOODS AND SERVICES TAX (EXTENSION TO JAMMU AND KASHMIR) ORDINANCE, 2017

No. 4 OF 2017

Promulgated by the President in the Sixty-eighth Year of the Republic of India.

An Ordinance to provide for the extension of the Integrated Goods and Services Tax Act, 2017 to the State of Jammu and Kashmir.

WHEREAS the Integrated Goods and Services Tax has been introduced in the whole of India except the State of Jammu and Kashmir with effect from the 22nd day of June, 2017;

AND WHEREAS the Legislative Assembly of the State of Jammu and Kashmir has passed the resolution adopting the provisions of the Constitution (One Hundred and First Amendment) Act, 2016;

AND WHEREAS Constitution (Application to Jammu and Kashmir) Amendment Order, 2017 has been issued by the President extending the provisions of the Constitution (One Hundred and First Amendment) Act, 2016 to the State of Jammu and Kashmir;

AND WHEREAS the State of Jammu and Kashmir has proposed to implement the integrated goods and services tax in the said State with effect from the 8th day of July, 2017;

AND WHEREAS the provisions of the Integrated Goods and Services Tax Act, 2017 are required to be extended to the State of Jammu and Kashmir;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (*1*) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (*1*) This Ordinance may be called the Integrated Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017.

(*2*) It shall come into force at once.

Extension and amendment of Integrated Goods and Services Tax Act, 2017.

2. (*1*) The Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act) and all rules, notifications, schemes and orders made thereunder by the Central Government are hereby extended to, and shall be in force in, the State of Jammu and Kashmir. 13 of 2017.

(*2*) With effect from the date of commencement of this Ordinance, in the principal Act, in section 1, in sub-section (*2*), the words "except the State of Jammu and Kashmir" shall be omitted.

PRANAB MUKHERJEE,
President.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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No. 42] NEW DELHI, SATURDAY, SEPTEMBER 2, 2017/BHADRA 11, 1939 (SAKA)

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 2*nd September,* 2017/*Bhadra* 11, 1939 (*Saka*)

THE GOODS AND SERVICES TAX (COMPENSATION TO STATES) AMENDMENT ORDINANCE, 2017

NO. 5 OF 2017

Promulgated by the President in the Sixty-eighth Year of the Republic of India.

An Ordinance to amend the Goods and Services Tax (Compensation to States) Act, 2017.

WHEREAS Parliament is not in session and the President is satisfied that the circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

Short title and commencement.

1. (*1*) This Ordinance may be called the Goods and Services Tax (Compensation to States) Amendment Ordinance, 2017.

(*2*) It shall come into force at once.

Amendment to Schedule.

2. (*1*) In the Goods and Services Tax (Compensation to States) Act, 2017, in the Schedule,— 13 of 2017.

(*i*) after serial number 4 and the entries relating thereto, the following serial number shall be inserted, namely:—

(1)	(2)	(3)	(4)
"4A	Motor vehicles for the transport of not more than thirteen persons, including the driver.	8702 10, 8702 20, 8702 30 or 8702 90	Twenty-five per cent. *ad valorem*.";

(*ii*) against serial number 5, for the entry in column (4), the entry "Twenty-five per cent. *ad valorem*" shall be substituted.

RAM NATH KOVIND,
President.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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सं० 43] नई दिल्ली, बृहस्पतिवार, नवम्बर 23, 2017/ अग्रहायण 2, 1939 (शक)
No. 43] NEW DELHI, THURSDAY, NOVEMBER 23, 2017/AGRAHAYANA 2, 1939 (SAKA)

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 23*rd* November, 2017/*Agrahayana* 2, 1939 (*Saka*)

THE INDIAN FOREST (AMENDMENT) ORDINANCE, 2017

No.6 OF 2017

Promulgated by the President in the Sixty-eighth Year of the Republic of India.

An Ordinance further to amend the Indian Forest Act, 1927.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1.*(1)* This Ordinance may be called the Indian Forest (Amendment) Ordinance, 2017. Short title and commencement.

(2) It shall come into force at once.

Amendment of section 2 of Act 16 of 1927.

2. In the Indian Forest Act, 1927, in section 2, in clause (7), the word "bamboos" shall be omitted.

RAM NATH KOVIND,
President.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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सं० 44] नई दिल्ली, बृहस्पतिवार, नवम्बर 23, 2017/ अग्रहायण 2, 1939 (शक)
No. 44] NEW DELHI, THURSDAY, NOVEMBER 23, 2017/AGRAHAYANA 2, 1939 (SAKA)

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 23*rd* November, 2017/*Agrahayana* 2, 1939 (*Saka*)

THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ORDINANCE, 2017
No.7 OF 2017

Promulgated by the President in the Sixty-eighth Year of the Republic of India.

An Ordinance to amend the Insolvency and Bankruptcy Code, 2016.

WHEREAS the Insolvency and Bankruptcy Code, 2016 (the Code), *inter alia*, provides a framework for insolvency resolution of corporate persons in a time bound manner for maximisation of value of assets of such persons;

AND WHEREAS the provisions relating to corporate insolvency resolution process of the Code have come into force on 1st day of December, 2016;

AND WHEREAS in order to strengthen further the insolvency resolution process, it has been considered necessary to provide for prohibition of certain persons from submitting a resolution plan who, on account of their antecedents, may adversely impact the credibility of the processes under the Code;

AND WHEREAS it is also considered necessary to make provisions to specify certain additional requirements for submission and consideration of the resolution plan before its approval by the committee of creditors;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1.(*1*) This Ordinance may be called the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2017.

(*2*) It shall come into force at once.

Amendment of section 2.

2. In the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the principal Act), in section 2,— 31 of 2016.

(*i*) in clause (*d*), the word "and" shall be omitted;

(*ii*) for clause (*e*), the following clauses shall be substituted, namely:—

"(*e*) personal guarantors to corporate debtors;

(*f*) partnership firms and proprietorship firms; and

(*g*) individuals, other than persons referred to in clause (*e*),".

Amendment of section 5.

3. In section 5 of the principal Act,—

(*a*) for clause (*25*), the following clause shall be substituted, namely:—

'(25) "resolution applicant" means a person, who individually or jointly with any other person, submits a resolution plan to the resolution professional pursuant to the invitation made under clause (*h*) of sub-section (*2*) of section 25;';

(*b*) in clause (*26*), for the words "any person", the words "resolution applicant" shall be substituted.

Amendment of section 25.

4. In section 25 of the principal Act, in sub-section (*2*), for clause (*h*), the following clause shall be substituted, namely:—

"(*h*) invite prospective resolution applicants, who fulfil such criteria as may be laid down by him with the approval of committee of creditors, having regard to the complexity and scale of operations of the business of the corporate debtor and such other conditions as may be specified by the Board, to submit a resolution plan or plans.".

Insertion of new section 29A.

5. After section 29 of the principal Act, the following section shall be inserted, namely:—

Persons not eligible to be resolution applicant.

"29A. A person shall not be eligible to submit a resolution plan, if such person, or any other person acting jointly with such person, or any person who is a promoter or in the management or control of such person,—

(*a*) is an undischarged insolvent;

(*b*) has been identified as a wilful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the
10 of 1949. Banking Regulation Act, 1949;

(*c*) whose account is classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India
10 of 1949. issued under the Banking Regulation Act, 1949 and period of one year or more has lapsed from the date of such classification and who has failed to make the payment of all overdue amounts with interest thereon and charges relating to non-performing asset before submission of the resolution plan;

(*d*) has been convicted for any offence punishable with imprisonment for two years or more; or

(*e*) has been disqualified to act as a director under the
18 of 2013. Companies Act, 2013;

(*f*) has been prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;

(*g*) has indulged in preferential transaction or undervalued transaction or fraudulent transaction in respect of which an order has been made by the Adjudicating Authority under this Code;

(*h*) has executed an enforceable guarantee in favour of a creditor, in respect of a corporate debtor under insolvency resolution process or liquidation under this Code;

(*i*) where any connected person in respect of such person meets any of the criteria specified in clauses (*a*) to (*h*).

Explanation.— For the purposes of this clause, the expression "connected person" means—

(*i*) any person who is promoter or in the management or control of the resolution applicant; or

(*ii*) any person who shall be the promoter or in management or control of the business of the corporate debtor during the implementation of the resolution plan; or

(*iii*) the holding company, subsidiary company, associate company or related party of a person referred to in clauses (*i*) and (*ii*)

(*j*) has been subject to any disability, corresponding to clauses (*a*) to (*i*), under any law in a jurisdiction outside India.".

Amendment of section 30.

6. In section 30 of the principal Act, for sub-section (*4*), the following sub-section shall be substituted, namely:—

"(*4*) The committee of creditors may approve a resolution plan by a vote of not less than seventy-five per cent. of voting share of the financial creditors, after considering its feasibility and viability, and such other requirements as may be specified by the Board:

Provided that the committee of creditors shall not approve a resolution plan, submitted before the commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2017, where the resolution applicant is ineligible under section 29A and may, where no other resolution plan is available with it, require the resolution professional to invite a fresh resolution plan.".

Amendment of section 35.

7. In section 35 of the principal Act, in sub-section (*1*), in clause (*f*), the following proviso shall be inserted, namely:—

"Provided that the liquidator shall not sell the immovable and movable property or actionable claims of the corporate debtor in liquidation to any person who is not eligible to be a resolution applicant.".

Insertion of new section 235A.

8. After section 235 of the principal Act, the following section shall be inserted, namely:—

Punishment where no specific penalty or punishment is provided.

"235A. If any person contravenes any of the provisions of this Code or the rules or regulations made thereunder for which no penalty or punishment is provided in this Code, such person shall be punishable with fine which shall not be less than one lakh rupees but which may extend to two crore rupees.".

Amendment of section 240.

9. In section 240 of the principal Act, in sub-section (*2*),—

(*i*) after clause (*s*), the following clause shall be inserted, namely:—

"(*sa*) other conditions under clause (*h*) of sub-section (*2*) of section 25;",

(*ii*) after clause (*w*), the following clause shall be inserted, namely:—

"(*wa*) other requirements under sub-section (*4*) of section 30;".

RAM NATH KOVIND,
President.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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REGULATIONS 2017

1. The Lakshadweep Panchayats (Amendments) Regulation, 2017
2. The Andaman and Nicobar Islands Entertainment Tax Repeal Regulation, 2017
3. The Dadra and Nagar Haveli Value Added Tax (Amendment) Regulation, 2017
4. The Daman and Diu Value Added Tax (Amendment) Regulation, 2017
5. The Andaman and Nicobar Islands (municipal) Amendment Regulation, 2017
6. The Andaman and Nicobar Islands Value Added Tax Regulation, 2017

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 29*th June*, 2017/*Ashadha* 8, 1939 (*Saka*)

THE LAKSHADWEEP PANCHAYATS (AMENDMENT) REGULATION, 2017

NO. 1 OF 2017

Promulgated by the President in the Sixty-eighth Year of the Republic of India.

A Regulation to amend the Lakshadweep Panchayats Regulation, 1994.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

1. (*1*) This Regulation may be called the Lakshadweep Panchayats (Amendment) Regulation, 2017. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 51.

2. In the Lakshadweep Panchayats Regulation, 1994, in section 51, in sub-section (*1*), clause (*f*) shall be omitted.

PRANAB MUKHERJEE,
President.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 29*th June*, 2017/*Ashadha* 8, 1939 (*Saka*)

THE ANDAMAN AND NICOBAR ISLANDS ENTERTAINMENT TAX REPEAL REGULATION, 2017

NO. 2 OF 2017

Promulgated by the President in the Sixty-eighth Year of the Republic of India.

A Regulation to repeal the Andaman and Nicobar Islands Entertainment Tax Regulation, 1951.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulations made by him:—

Short title and commencement.

1. (*1*) This Regulation may be called the Andaman and Nicobar Islands Entertainment Tax Repeal Regulation, 2017.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Repeal of the Andaman and Nicobar Islands Entertainment Tax Regulation, 1951.

2. Save as otherwise provided in this Regulation, on and from the date of coming into force of this Regulation, the Andaman and Nicobar Islands Entertainment Tax Regulation, 1951 (hereinafter referred to as the said Regulation) shall be repealed.

Savings.

3. The repeal of the said Regulation shall not—

(*a*) revive anything not in force or existing at the time of such amendment; or

(*b*) affect the previous operation of the repealed Regulation and orders or anything duly done or suffered thereunder; or

(*c*) affect any right, privilege, obligation, or liability acquired, accrued or incurred under the repealed Regulation or orders under such repealed Regulation:

Provided that, any tax exemption granted as an incentive against investment through a notification shall not continue as privilege if the said notification is rescinded on or after the date of coming into force of this Regulation; or

(*d*) affect any tax, surcharge, penalty, fine, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed against the provisions of the repealed Regulation; or

(*e*) affect any investigation, search, seizure, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and any other legal proceedings or recovery of arrears or remedy in respect of any such tax, surcharge, penalty, fine, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, search, seizure, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and other legal proceedings or recovery of arrears or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, fine, interest, forfeiture or punishment may be levied or imposed as if the said Regulation had not been so repealed; or

(*f*) affect any proceedings including that relating to any appeal, revision, review or reference, instituted before, on or after the date of coming into force of this Regulation under the said repealed Regulation and such proceeding shall be continued under the said repealed Regulation as if this Regulation had not come into force and the said Regulation had not so been repealed.

PRANAB MUKHERJEE,
President.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 29*th June,* 2017/*Ashadha* 8, 1939 (*Saka*)

THE DADRA AND NAGAR HAVELI VALUE ADDED TAX (AMENDMENT) REGULATION, 2017

No. 3 of 2017

Promulgated by the President in the Sixty-eighth Year of the Republic of India.

A Regulation further to amend the Dadra and Nagar Haveli Value Added Tax Regulation, 2005.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulations made by him:—

Short title and commencement.

1. (*1*) This Regulation may be called the Dadra and Nagar Haveli Value Added Tax (Amendment) Regulation, 2017.

(*2*) It shall come into force on such date as the Central Government, may, by notification in the Official Gazette, appoint.

Amendment of section 2.

2. In the Dadra and Nagar Haveli Tax Regulation, 2005,—

(*a*) in section 2, for clause (*l*), the following clause shall be substituted, namely:—

'(*l*) "goods" means—

(*i*) petroleum crude;

(*ii*) high speed diesel;

(*iii*) motor spirit (commonly known as petrol);

(*iv*) natural gas;

(*v*) aviation turbine fuel; and

(*vi*) alcoholic liquor for human consumption.";

(*b*) in section 4,—

(*i*) for sub-section (*1*), clauses (*a*), (*b*), (*d*) and the proviso shall be omitted;

(*ii*) in sub-section (*2*), for the words, brackets and letters "clauses (*a*) to (*d*)", the word, brackets and letter "clause (*c*)" shall be substituted;

(*c*) the First, Second and Third Schedule shall be omitted;

(*d*) for the Fourth Schedule, the following Schedule shall be substituted, namely:—

"THE FOURTH SCHEDULE

[*See* clause (*c*) of sub-section (*1*) of section 4]

List of Goods taxed at twenty per cent.

GOODS

(*i*) petroleum crude;

(*ii*) high speed diesel;

(*iii*) motor spirit (commonly known as petrol);

(*iv*) natural gas;

(*v*) aviation turbine fuel; and

(*vi*) alcoholic liquor for human consumption.";

(*e*) in the Sixth Schedule—

(*a*) in Paragraph (*1*), for serial numbers (*i*) to (*viii*), the following shall be substituted, namely:—

"(*i*) fuels in the form of high speed diesel, motor spirit (commonly known as petrol), natural gas."

(*b*) Paragraph 2 shall be omitted;

(*c*) in Paragraph 3, for the brackets and figures "(*ii*)", the brackets and figure "(*i*)" shall be substituted.

PRANAB MUKHERJEE,
President.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 29*th June*, 2017/*Ashadha* 8, 1939 (*Saka*)

THE DAMAN AND DIU VALUE ADDED TAX (AMENDMENT) REGULATION, 2017

NO. 4 OF 2017

Promulgated by the President in the Sixty-eighth Year of the Republic of India.

A Regulation further to amend the Daman and Diu Value Added Tax Regulation, 2005.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

Short title and commencement.

1. (*1*) This Regulation may be called the Daman and Diu Value Added Tax (Amendment) Regulation, 2017.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

2. In the Daman and Diu Value Added Tax Regulation, 2005,—

(*a*) in section 2, for clause (*l*), the following clause shall be substituted, namely:—

'(*l*) "goods" means—

(*i*) petroleum crude;

(*ii*) high speed diesel;

(*iii*) motor spirit (commonly known as petrol);

(*iv*) natural gas;

(*v*) aviation turbine fuel; and

(*vi*) alcoholic liquor for human consumption.";

(*b*) in section 4,—

(*i*) in sub-section (*1*), clauses (*a*), (*b*), (*d*) and the proviso shall be omitted;

(*ii*) in sub-section (*2*), for the words, brackets and letters "clauses (*a*) to (*d*)", the word, brackets and letter "clause (*c*)" shall be substituted;

(*c*) the First, Second and Third Schedule shall be omitted;

(*d*) for the Fourth Schedule the following Schedule shall be substituted, namely:—

"THE FOURTH SCHEDULE

[*See* clause (*c*) of sub-section (*1*) of section 4]

List of Goods taxed at twenty per cent.

GOODS

(*i*) petroleum crude;

(*ii*) high speed diesel;

(*iii*) motor spirit (commonly known as petrol);

(*iv*) natural gas;

(*v*) aviation turbine fuel; and

(*vi*) alcoholic liquor for human consumption.";

(*e*) in the Sixth Schedule—

(*a*) in Paragraph (*1*), for serial numbers (*i*) to (*viii*), the following shall be substituted, namely:—

"(*i*) fuels in the form of high speed diesel, motor spirit (commonly known as petrol), natural gas."

(*b*) Paragraph 2 shall be omitted;

(*c*) in Paragraph 3, for the brackets and figures "(*ii*)", the brackets and figure "(*i*)" shall be substituted.

PRANAB MUKHERJEE,
President.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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भारत का राजपत्र
The Gazette of India

असाधारण
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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 29*th June,* 2017/*Ashadha* 8, 1939 (*Saka*)

THE ANDAMAN AND NICOBAR ISLANDS (MUNICIPAL) AMENDMENT REGULATION, 2017

No. 5 of 2017

Promulgated by the President in the Sixty-eighth Year of the Republic of India.

A Regulation further to amend the Andaman and Nicobar Islands (Municipal) Regulation, 1994.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulations made by him:—

Short title and commencement.

1. (*1*) This Regulation may be called the Andaman and Nicobar Islands (Municipal) Amendment Regulation, 2017.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 80.

2. In the Andaman and Nicobar Islands (Municipal) Regulation, 1994, in section 80, in sub-section (*1*),—

(*a*) clause (*e*) shall be omitted; and

(*b*) clause (*j*) shall be omitted.

PRANAB MUKHERJEE,
President.

———

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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भारत का राजपत्र
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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 26*th July,* 2017/*Shravana* 4, 1939 (*Saka*)

THE ANDAMAN AND NICOBAR ISLANDS VALUE ADDED TAX REGULATION, 2017

NO. 6 OF 2017

Promulgated by the President in the Sixty-eighth Year of the Republic of India.

A Regulation to provide for a tax system on the goods excluded from the Union Territory Goods and Services Tax Act, 2017 *and to widen the tax base by levying tax on sale of the said goods at every point of sale, making the levy of tax transparent and for matters connected therewith or incidental thereto.*

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

CHAPTER I
PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Andaman and Nicobar Islands Value Added Tax Regulation, 2017.

(*2*) It extends to the whole of the Union territory of Andaman and Nicobar Islands.

(*3*) (*a*) The provisions of this Regulation, except sections 99 to 101, shall be deemed to have come into force on the 1st day of July, 2017.

(*b*) The provisions of sections 99 to 101 of this Regulation shall come into force at once.

Definitions.

2. (*1*) In this Regulation, unless the context otherwise requires,—

(*a*) "accountant" means—

(*i*) a chartered accountant within the meaning of clause (*b*) of sub-section (*1*) of section 2 of the Chartered Accountant's Act, 1949; or 38 of 1949.

(*ii*) a person who by virtue of the provisions of section 141 of the Companies Act, 2013, is entitled to be appointed to act as an auditor of companies registered; or 18 of 2013.

(*iii*) a cost accountant within the meaning of the Cost and Works Accountants Act, 1959; or 23 of 1959.

(*iv*) a person referred to in section 139 and section 143 of the Companies Act, 2013; 18 of 2013.

(*b*) "adequate proof" means such documents, testimony or other evidence as may be prescribed;

(*c*) "Andaman and Nicobar Islands" means the Union territory of Andaman and Nicobar Islands;

(*d*) "Appellate Tribunal" means the Appellate Tribunal constituted under section 73;

(*e*) "business" includes—

(*i*) the provision of any services, but excluding the services provided by an employee;

(*ii*) any trade, commerce or manufacture;

(*iii*) any adventure or concern in the nature of trade, commerce or manufacture;

(*iv*) any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern; and

(*v*) any occasional transaction in the nature of such service, trade, commerce, manufacture, adventure or concern whether or not there is volume, frequency, continuity or regularity of such transaction,

whether or not such service, trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such service, trade, commerce, manufacture, adventure or concern;

(*f*) "business premises" includes—

(*i*) the address of a dealer, registered with the Commissioner;

(*ii*) any building or place used by a person for the conduct of his business, except for those parts of the building or place used principally as a residence;

(*iii*) any place from where a dealer carries on business through an agent (by whatever name called), the place of business of such agent; and a warehouse, godown or such other place where a dealer stores his goods;

(*g*) "capital goods" means plant, machinery and equipment used, directly or indirectly, in the process of trade or manufacturing or for execution of works contract in Andaman and Nicobar Islands;

(*h*) "casual trader" means a person who, whether as principal, agent or in any other capacity undertakes occasional transactions in the nature of business involving buying, selling, supply or distribution of goods or conducting any exhibition-cum-sale in Andaman and Nicobar Islands whether for cash, deferred payment, commission, remuneration or other valuable consideration;

(*i*) "Commissioner" means the Commissioner of Value Added Tax appointed under sub-section (*1*) of section 66;

(*j*) "dealer" means any person who, for the purposes of or consequential to his engagement in or in connection with or incidental to or in the course of his business, buys or sells goods in Andaman and Nicobar Islands directly or otherwise, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration and includes,—

(*i*) a factor, commission agent, broker, *del credere* agent or any other mercantile agent by whatever name called, who for the purposes of or consequential to his engagement in or in connection with or incidental to or in the course of the business, buys or sells or supplies or distributes any goods on behalf of any principal or principals whether disclosed or not;

(*ii*) a non-resident dealer or as the case may be, an agent, residing in the State of a non-resident dealer, who buys or sells goods in Andaman and Nicobar Islands for the purposes of or consequential to his engagement in or in connection with or incidental to or in the course of the business;

(*iii*) a local branch of a firm or company or an association of persons, outside Andaman and Nicobar Islands where such firm company, association of persons is a dealer under any other sub-clause of this definition;

(*iv*) a club, association, society, trust, or co-operative society, whether incorporated or unincorporated, which buys goods from or sells goods to its members for price, fee or subscription, whether or not in the course of business;

(*v*) an auctioneer, who sells or auctions goods whether acting as an agent or otherwise or, who organises the sale of goods or conducts the auction of goods whether or not he has the authority to sell the goods belonging to any principal, whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal;

(*vi*) a casual trader;

(*vii*) any person who, for the purposes of or consequential to his engagement in or in connection with or incidental to or in the course of his business disposes of any goods as unclaimed or confiscated, or as unserviceable or scrap, surplus, old, obsolete or as discarded material or waste products by way of sale;

(*viii*) Customs Department of the Government of India administering Customs Act, 1962;

52 of 1962.

(*ix*) Departments of the Central Government, State Governments and Union territory Administrations;

(*x*) Local authorities, Panchayats, Municipalities, Development Authorities and Cantonment Boards;

(*xi*) Public Charitable Trusts;

(*xii*) Railway Administration as defined under the Indian Railways Act, 1989;

24 of 1989.

(*xiii*) incorporated or unincorporated societies, clubs or other associations of persons;

(*xiv*) each autonomous or statutory body or corporation or company or society or any industrial, commercial, banking, insurance or trading undertaking, corporation, institution or company whether or not of the Union Government or any of the State Governments or of a local authority;

(*xv*) Shipping and construction companies, air transport companies, airlines and advertising agencies;

(*k*) "fair market value" means the value at which goods of like kind and quality are sold or would be sold in the same quantities between unrelated parties in the open market in Andaman and Nicobar Islands;

(*l*) "goods" means goods specified in the First Schedule, as amended from time to time;

(*m*) "goods vehicle" means a motor vehicle, vessel, boat, animal and any other form of conveyance used for carrying goods;

(*n*) "Government" means the Lieutenant Governor of the Andaman and Nicobar Islands appointed by the President under article 239 of the Constitution;

(*o*) "import" means sale or purchase in the course of the import of goods into the territory of India if the sale or purchase either occasions such import or is effected by transfer of document of title to the goods before the goods have crossed the customs frontiers of India and includes procurement of goods from outside the Andaman and Nicobar Islands either as a result of purchase or otherwise.

Explanation.—In the case of goods arriving in Andaman and Nicobar Islands from a foreign country through customs, the "import of the goods in Andaman and Nicobar Islands" shall occur at the place where the goods are cleared by Customs for home consumption;

(*p*) "importer" shall include—

(*i*) a person who brings his own goods into Andaman and Nicobar Islands; or

(*ii*) a person on whose behalf another person brings goods into Andaman and Nicobar Islands; or

(*iii*) in the case of a sale occurring in the circumstances referred to in sub-section (*2*) of section 6 of the Central Sales Tax Act, 1956, the person in Andaman and Nicobar Islands to whom the goods are delivered; 74 of 1956.

(*q*) "input tax" in relation to the purchase of goods, means the proportion of the price paid by the buyer for the goods which represents tax for which the selling dealer is liable under this Regulation;

(*r*) "manufacture" with its grammatical variations and cognate expressions, means producing, making, extracting, altering, ornamenting, finishing or otherwise processing, treating or adapting any goods, but does not include any such process or mode of manufacture as may be prescribed;

(*s*) "net tax" means the amount calculated for a tax period under section 11;

(*t*) "non-resident" means a person who has no fixed place of business or residence in Andaman and Nicobar Islands;

(*u*) "notified" means notified by the Commissioner in the Official Gazette;

(*v*) "Official Gazette" means the Andaman and Nicobar Islands Gazette;

(*w*) "prescribed" means prescribed by rules made under this Regulation;

(*x*) "registered dealer" means a dealer registered under this Regulation;

(*y*) "related person" means a person who is related to another person (referred to in this definition as a "dealer") if the person—

(*i*) is a relative of the dealer;

(*ii*) is a partnership of which the dealer is a partner;

(*iii*) is a company in which the dealer [either alone or in conjunction with another person who is, or persons who are, related to the dealer under sub-clauses (*i*), (*ii*), (*iv*), (*v*) and (*vi*)].—directly or indirectly holds forty per cent. or more of outstanding voting stock or shares;

(*iv*) is a person who [either alone or in conjunction with another person who is, or other persons who are, related to the person under sub-clauses (*i*), (*ii*), (*iii*), (*v*) and (*vi*)].— directly or indirectly owns forty per cent. or more of outstanding voting stock or shares of the dealer;

(*v*) is a company in which forty per cent. or more of outstanding voting stock is held directly or indirectly by a person [either alone or in conjunction with another person who is, or other persons who are, related to the person under sub-clauses (*i*), (*ii*), (*iii*), (*iv*) and (*vi*)] who also holds forty per cent. or more of the outstanding voting stock or shares of the dealer; or

(*vi*) is controlled by the dealer or a person whom the dealer controls, or is a person who is controlled by the same person who controls the dealer;

(*z*) "relative" means a relative as defined in clause (*77*) of section 2 of the Companies Act, 2013; 18 of 2013.

(*za*) "sale" with its grammatical variations and cognate expression, means any transfer of property in goods by one person to another for cash or for deferred payment or for other valuable consideration (not including a grant or subvention payment made by one government agency or department, whether of the Central Government or of any State Government, to another) and includes—

(*i*) a transfer of goods on hire purchase or other system of payment by instalments, but does not include a mortgage or hypothecation of, or a charge or pledge on goods;

(*ii*) supply of goods by a society (including a co-operative society), club, firm, or any association to its members for cash or for deferred payment or for commission, remuneration or other valuable consideration, whether or not in the course of business;

(*iii*) transfer of property in goods by an auctioneer referred to in sub-clause (*vii*) of clause (*j*), or sale of goods in the course of any other activity in the nature of banking, insurance who in the course of their main activity also sell goods repossessed or re-claimed;

(*iv*) transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;

(*v*) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

(*vi*) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption

or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration;

(*vii*) every disposal of goods referred to in sub-clause (*vii*) of clause (*j*) of this sub-section and the words "sell", "buy" and "purchase" wherever appearing with all their grammatical variations and cognate expressions, shall be construed accordingly;

(*zb*) "sale price" means the amount paid or payable as valuable consideration for any sale, including—

(*i*) the amount of tax, if any, for which the dealer is liable under section 3;

(*ii*) in relation to the delivery of goods on hire purchase or any system of payment by instalments, the amount of valuable consideration payable to a person for such delivery including hire charges, interest and other charges incidental to such transaction;

(*iii*) in relation to transfer of the right to use any goods for any purpose (whether or not for a specified period) the valuable consideration or hiring charges received or receivable for such transfer;

(*iv*) any sum charged for anything done by the dealer in respect of goods at the time of, or before, the delivery thereof;

(*v*) amount of duties levied or leviable on the goods under the Central Excise Act, 1944 or the Customs Act, 1962, or the Andaman and Nicobar Islands excise regulation whether such duties are payable by the seller or any other person;

1 of 1944.
52 of 1962.

(*vi*) amount received or receivable by the seller by way of deposit (whether refundable or not) which has been received or is receivable whether by way of separate agreement or not, in connection with, or incidental to or ancillary to the sale of goods; and

(*vii*) in relation to works contract means the amount of valuable consideration paid or payable to a dealer for the execution of the works contract, less—

(*a*) any sum allowed as discount which goes to reduce the sale price according to the practice, normally, prevailing in trade;

(*b*) the cost of freight or delivery or the cost of installation in cases where such cost is separately charged; and the words "purchase price" with all their grammatical variations and cognate expressions, shall be construed accordingly:

Provided that where the dealer makes sale of goods imported into the territory of India, the sale price shall be higher of the following—

(*a*) the valuable consideration received or receivable by the dealer;

(*b*) value determined by the Custom authorities for payment of custom duty at the time of the import of such goods;

(*zc*) "Schedule" means a Schedule appended to this Regulation;

(*zd*) "tax" means tax payable under this Regulation;

(*ze*) "taxable quantum" means the amount defined in sub-section (*2*) of section 18;

(*zf*) "tax invoice" means the document as defined in section 50;

(*zg*) "tax period" means the period prescribed in the rules made under this Regulation;

(*zh*) "tax fraction" means the fraction calculated in accordance with formula, r / (r+100) where 'r' is the percentage rate of tax applicable to the sale under this Regulation;

(*zi*) the expression, "in the course of" includes activities done for the purposes of, in connection with, or incidental to, and activities done as part of the preparation for the activity and in the termination of the activity;

(*zj*) "transporter" means any person who, for the purposes of or in connection with or incidental to or in the course of his business transports or causes to transport goods, and includes any person whose business consists of or includes operating a railway, shipping company, air cargo terminal, inland container depot, container freight station, courier service or airline;

(*zk*) "turnover" means the aggregate of the amounts of sale price received or receivable by the person in any tax period, reduced by any tax for which the person is liable under section 3;

(*zl*) "turnover of purchases" means the aggregate of the amounts of purchase price paid or payable by a person in any tax period, excluding any input tax;

(*zm*) "value of goods" means the fair market value of the goods at that time including insurance charges, excise duties, countervailing duties, tax paid or payable under the Central Sales Tax Act, 1956 in respect of the sale, transport charges, freight charges and all other charges incidental to the transaction of the goods;

74 of 1956.

(*zn*) "works contract" includes any agreement for carrying out for cash or for deferred payment or for valuable consideration, the building construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, repair or commissioning of any movable or immovable property;

(*zo*) "year" means the financial year from the first day of April to the last day of March.

(*2*) Unless otherwise specified in this Regulaton—

(*a*) words importing the masculine gender shall include the feminine gender;

(*b*) words in singular shall include their plural and *vice versa;*

(*c*) expressions referring to "writing" shall include printing, typing, lithography, photography and other methods of representing or reproducing words in a visible form; and

(*d*) with reference to a person who is unable to sign his name, the word "signature" shall include his thumb impression or other mark duly attested to signify his signature.

CHAPTER II
LEVY OF TAX

Levy of tax.

3. (*1*) Subject to the other provisions of this Regulation, every dealer who is—

(*a*) registered under this Regulation; or

(*b*) required to be registered under this Regulation,

shall be liable to pay tax calculated in accordance with this Regulation, at the time and in the manner provided in this Regulation.

(*2*) Every dealer who has become liable to pay tax under this Regulation on the sale of goods shall continue to be so liable unless his taxable turnover during the preceding twelve months (and such further period as may be prescribed) has remained below the

taxable quantum and on the expiry of the twelve months or such further period his liability to pay tax shall cease:

Provided that any dealer whose liability to pay tax under this Regulation ceases for any other reason may apply earlier for the cancellation of his registration, and on such cancellation, his liability to pay tax shall cease:

Provided further that a dealer shall remain liable to pay tax until the date on which his registration is cancelled.

(*3*) Every dealer whose liability to pay tax under this Regulation has ceased or whose registration has been cancelled, shall, if his turnover calculated from the commencement of any year, including the year in which the registration has been cancelled, again exceeds the taxable quantum on any day within such year be liable to pay such tax on and from the date on which his turnover again exceeds the taxable quantum, on all sales effected by him on and after that day.

(*4*) Where it is found that any person registered as a dealer ought not to have been so registered, then notwithstanding anything contained in this Regulation, such person shall be liable to pay tax for the period during which he was registered.

(*5*) If any person who transports goods or holds goods in custody for delivery to or on behalf of any person, on being required by the Commissioner so to do, fails—

(*a*) to furnish any information in his possession in respect of the goods; or

(*b*) fails to permit inspection thereof,

then without prejudice to any other action which may be taken against such person, a presumption may be raised that the goods in respect of which he has failed to furnish information or permit inspection, are owned by him and are held by him for sale in Andaman and Nicobar Islands and the provisions shall apply accordingly.

(*6*) If any person who, whether as principal, agent or in any other capacity organises any exhibition-cum-sale in Andaman and Nicobar Islands and fails—

(*a*) to furnish any information in respect of the goods brought or kept in stock or sold by any participant before or during or after the exhibition-cum-sale; or

(*b*) to ensure that all the participants in the exhibition-cum-sale have obtained registration under this Regulation and paid due tax; or

(*c*) to permit inspection of the business premises or goods or account and records of the participants; or

(*d*) to permit inspection of the accounts and records of the organiser in respect of the exhibition-cum-sale,

then, without prejudice to any other action which may be taken against such participant, a presumption may be raised that the goods of the participant who fails to obtain registration under this Regulation or the goods in respect of which the participant has failed to furnish information or failed to permit inspection, are owned by the organiser and are held by him for sale in Andaman and Nicobar Islands and the provisions shall apply accordingly.

Rates of tax.

4. (*1*) The rates of tax payable on the taxable turnover of a dealer shall be in respect of goods specified in the First Schedule, at the rate specified therein.

(*2*) The Government may, if it deems necessary, change the rates of tax as specified in sub-section (*1*), by a notification to that effect in the Official Gazette.

Taxable turnover.

5. For the purposes of this Regulation, "taxable turnover" means the turnover of a dealer during the tax period which remains after deducting therefrom—

(*a*) the turnover of sales not subject to tax under section 7; and

(*b*) the turnover of sales of goods declared exempt under section 6.

Sale exempt from tax.

6. The sale of goods listed in the Second Schedule shall be exempted from tax subject to the conditions and exceptions set out therein.

Certain sales not liable to tax.

7. Nothing contained in this Regulation or the rules made thereunder shall be deemed to impose or authorise the imposition of tax on any sale of goods when such sale takes place—

(*a*) in the course of inter-State trade or commerce; or

(*b*) outside Andaman and Nicobar Islands; or

(*c*) in the course of import of the goods into or export of the goods out of, the territory of India;

(*d*) in accordance with the notification issued by the Central Government in exercise of its powers under section 3 of the Foreign Aircraft (Exemption from Taxes and Duties on Fuel) Act, 2002, no tax shall be levied on sales of the fuel and lubricants which are filled into receptacles forming part of any aircraft registered in a country other than India, if— 36 of 2002.

(*i*) the said country is a party to the Convention on International and Civil Aviation, 1944;

(*ii*) the said country has entered into an Air Services agreement with India; and

(*iii*) the aircraft is operating on a scheduled or non-scheduled service to or from India.

Adjustments of tax.

8. (*1*) Subject to such conditions as may be prescribed, this section shall apply where, in relation to the sale of goods by any dealer,—

(*a*) that sale has been cancelled;

(*b*) the nature of that sale has been fundamentally varied or altered;

(*c*) the previously agreed consideration for that sale has been altered by agreement with the recipient, whether due to the offer of a discount or for any other reason;

(*d*) the goods or part of the goods sold have been returned to the dealer within six months of the date of sale; or

(*e*) the whole or part of the price owed by the buyer for the purchase of the goods has been written-off by the dealer as a bad debt; and the dealer has—

(*i*) provided a tax invoice in relation to that sale and the amount shown therein as tax charged on that sale is not the tax properly chargeable on that sale; or

(*ii*) furnished a return in relation to a tax period in respect of which tax on that sale is attributable, and has accounted for an amount of tax on that sale that is not the amount properly chargeable on that sale.

(*2*) Where a dealer has accounted for an incorrect amount of tax as contemplated in sub-section (*1*), that dealer shall make an adjustment in calculating the tax payable by that dealer in the return for the tax period during which it has become apparent that the tax is incorrect, and if—

(*a*) the tax payable in relation to that sale exceeds the tax actually accounted for by the dealer, the amount of that excess shall be deemed to arise in the tax period in which the adjustment is made, and shall not be attributable to any prior tax period; or

(*b*) the tax actually accounted for exceeds the tax payable in relation to the sale, the amount of that deficiency shall be subtracted from the tax payable by the dealer in the tax period in which the adjustment is made, and shall not be attributable to any prior tax period.

(*3*) Where a dealer sells goods that have been used in part for making—

(*a*) sales that are subject to tax under this Regulation or sales that are not liable to tax under section 7; and

(*b*) partly for other purposes, the amount of tax on the sale of the goods shall be the greater of—

(*i*) A— (A x B / C); or

(*ii*) A— B;

where A = the tax for which the dealer would be liable in respect of the sale apart from this section;

B = the amount by which the tax credit of the dealer in respect of the goods was reduced under sub-section (*4*) of section 9;

C = the amount of the tax credit before reduction under sub-section (*4*) of section 9.

Tax credit.

9. (*1*) No tax credit shall be allowed—

(*a*) in the case of the purchase of goods for goods purchased from a person who is not a registered dealer;

(*b*) for the purchase of non-creditable goods as listed in the Third Schedule;

(*c*) for the purchase of goods which are to be incorporated into the structure of a building owned or occupied by the person;

(*d*) for goods purchased from a dealer who has elected to pay tax under section 16;

(*e*) for goods purchased from a casual trader;

(*f*) to the dealers or class of dealers unless the tax paid by the purchasing dealer has actually been deposited by the selling dealer with the Government or has been lawfully adjusted against output tax liability and correctly reflected in the return filed for the respective tax period.

(*2*) The amount of the tax credit to which a dealer is entitled in respect of the purchase of goods shall be the amount of input tax arising in the tax period reduced in the manner described in sub-sections (*3*), (*5*) and (*9*).

(*3*) Where a dealer has purchased goods and the goods are to be used partly for the purpose of making the sales referred to in sub-section (*1*) and partly for other purposes, the amount of the tax credit shall be reduced proportionately.

(*4*) The method used by a dealer to determine the extent to which the goods are used in the manner specified in sub-section (*4*), shall be fair and reasonable in the circumstances:

Provided that the Commissioner may—

(*a*) after giving reasons in writing, reject the method adopted by the dealer and calculate the amount of tax credit; and

(*b*) prescribe methods for calculating the amount of tax credit or the amount of any adjustment or reduction of a tax credit in certain instances.

(*5*) Notwithstanding anything to the contrary contained in sub-section (*1*), where—

(*a*) a dealer has purchased goods (other than capital goods) for which a tax credit arises under sub-section (*1*);

(*b*) the goods or goods manufactured out of such goods are to be exported from Andaman and Nicobar Islands by way of transfer to a—

(*i*) non-resident consignment agent; or

(*ii*) non-resident branch of the dealer; and

(*c*) the transfer shall not be by way of a sale made in Andaman and Nicobar Islands; the amount of the tax credit shall be reduced by the prescribed percentage.

Explanation.—For the removal of doubts, it is hereby clarified that no tax credit shall be allowed for the purchase of goods from an unregistered dealer.

(*6*) The tax credit may be claimed by a dealer only if he holds a tax invoice at the time the prescribed return for the tax period is furnished.

(*7*) Notwithstanding anything to the contrary contained in sub-section (*1*), where—

(*a*) a dealer has purchased goods (other than capital goods) for which a tax credit arises under sub-section (*1*); and

(*b*) the goods or goods manufactured out of such goods are to be exported from Andaman and Nicobar Islands by way of sale made under sub-section (*1*) of section 8 of the Central Sales Tax Act, 1956, the amount of the tax credit shall be reduced by the prescribed percentage.

74 of 1956.

(*8*) Subject to the provisions of sub-sections (*1*) and (*2*), the tax credit of goods to be used for sale, as defined in sub-clause (*v*) of clause (*zb*) of sub-section (*1*) of section 2, shall be allowed as follows:—

(*a*) 1/4th of the input tax on such goods arising in the tax period, in the same tax period;

(*b*) balance 3/4th of such input tax, in equal proportions, in corresponding tax periods, in three immediately successive financial years.

Adjustment to tax credit.

10. (*1*) Where any purchaser has been issued with a credit note or debit note in terms of section 51 or if he returns or rejects goods purchased, as a consequence of which the tax credit claimed by him in any tax period in respect of which the purchase of goods relates, becomes short or excess, he shall compensate such short or excess by adjusting the amount of the tax credit allowed to him in respect of the tax period in which the credit note or debit note has been issued or goods are returned.

(*2*) If goods which have been purchased were—

(*a*) intended to be used for the purposes specified under sub-section (*1*) of section 9 and are subsequently used, fully or partly, for purposes other than those specified under the said sub-section; or

(*b*) intended for purposes other than those specified under sub-section (*1*) of said section 9, and are subsequently used, fully or partly, for the purposes specified in the said sub-section; the tax credit claimed in respect of such purchase shall be reduced or increased (as the case may be) for the tax period during which the said utilisation otherwise has taken place.

(*3*) Where—

(*a*) goods were purchased by a dealer;

(*b*) the dealer claimed a tax credit in respect of the goods, and did not reduce the tax credit by the prescribed percentage; and

(*c*) the goods are exported from Andaman and Nicobar Islands,—

(*i*) by way of a sale made as per the provisions of sub-section (*1*) of section 8 of the Central Sales Tax Act, 1956; or

74 of 1956.

(*ii*) other than by way of a sale, to a branch of the registered dealer or to a consignment agent; the dealer shall reduce the amount of tax credit originally claimed by the prescribed proportion.

(*4*) If goods which have been purchased by a dealer were—

(*a*) intended to be used for the purposes specified under sub-section (*1*) of section 9; and

(*b*) are subsequently incorporated into the structure of a building owned or occupied by the person; the tax credit claimed in respect of such purchase shall be reduced in the tax period during which such incorporation takes place.

(*5*) Where the goods which have been purchased by a dealer are sold at a price lower than the price at which it was purchased by the dealer, the tax credit on such purchases shall be reduced proportionately in the tax period during which the goods are sold.

Net tax.

11. (*1*) The net tax payable by a dealer for a tax period shall be determined by the formula: Net tax = O— I— C

Where—

O = the amount of tax payable by the person at the rates stipulated in section 4 in respect of the taxable turnover arising in the tax period, adjusted to take into account any adjustments to the tax payable required by section 8.

I = the amount of the tax credit arising in the tax period to which the person is entitled under section 9, adjusted to take into account any adjustments to the tax credit required by section 10.

C = the amount, if any, brought forward from the previous tax period under sub-section (*2*).

(*2*) Where the net tax of a dealer calculated under sub-section (*1*) amounts to a negative value, the dealer shall—

(*a*) adjust the said amount in the same tax period against the tax payable by him under the Central Sales Tax Act, 1956 if any; and 74 of 1956.

(*b*) be entitled to carry forward the amount remaining after application under clause (*a*) of sub-section (*2*) to next calendar month or tax period, as the case may be, of the same year, or claim a refund of the amount remaining after application under clause (*a*) of sub-section (*2*) at the end of a tax period of the same year and the Commissioner shall deal with the refund claim in the manner described in section 38 and section 39.

(*3*) No tax shall be payable under this Regulation by a contractor on the amount representing the value of the goods supplied by the contractee to the contractor in the execution of works contract in which the ownership of such goods remains with the contractee under the terms of the contract and the amount representing the value of the goods supplied by the contractee to the contractor does not form part of the contract and is not deductible from the amount payable to the contractor by the contractee for the execution of the works contract.

Time at which amount of turnover, turnover of purchases and adjustments arise.

12. (*1*) Subject to the provisions of sub-sections (*2*), (*3*) and (*4*), the amount of the turnover and the turnover of purchases of a dealer which arises during any tax period shall be the amount recorded in the accounts of the dealer where those accounts are regularly and systematically prepared and maintained, give a true and fair view of his dealings, and are employed by the dealer in determining the turnover of the dealer's business for commercial or income-tax purposes.

(*2*) The Commissioner may by notification—

(*a*) permit certain classes of dealer to record turnover based on amounts paid or received; and

(*b*) require certain classes of dealer to record turnover based on amounts payable or receivable.

(*3*) Where a dealer wishes to change the method of determining the turnover and turnover of purchases, he may only make the change with the consent of the Commissioner and on such terms and conditions as the Commissioner may impose.

(*4*) The Government may prescribe the time at which a dealer shall treat the—

(*a*) turnover;

(*b*) turnover of purchases; and

(*c*) adjustment of tax or adjustment to a tax credit; as arising for a class of transactions.

CHAPTER III

SPECIAL REGIMES

Priority.

13. Where a provision in this Chapter is inconsistent with a provision in Chapter II, the provision in this Chapter shall, to the extent of the inconsistency, prevails.

Treatment of stock brought forward during transition.

14. (*1*) Within a period of four months of the commencement of this Regulation, all registered dealers wishing to claim the credit referred to in sub-section (*2*), shall furnish to the Commissioner a statement of their trading stock, raw materials and packaging materials for trading stock (in this section referred to as "opening stock") which—

(*a*) is held in Andaman and Nicobar Islands on the date of the commencement of this Regulation;

(*b*) was purchased by the dealer after the first day of July 2016,

in such form as may be prescribed.

(*2*) If—

(*a*) the dealer has furnished the statement referred to in sub-section (*1*);

(*b*) the opening stock has borne tax under the Port Blair Municipal Council Octroi Tax Bye-Laws, at the point specified by the Government under Rule 6 of the said Bye-Laws,

the amount of tax paid on such opening stock shall be determined in such manner and subject to such conditions and restrictions and to the extent as may be prescribed and shall be credited to the registered dealers as a tax credit under section 9.

(*3*) For the avoidance of doubt, no tax credit under sub-section (*2*) can be claimed—

(*a*) for finished goods manufactured out of tax paid raw material or capital goods;

(*b*) in a statement furnished more than four months after the commencement; or

(*c*) for opening stock which is held outside Andaman and Nicobar Islands.

(*4*) Every dealer wishing to claim a tax credit in excess of one lakh rupees on opening stock shall furnish with the statement a certificate signed by an accountant in the prescribed form certifying that the net credit claim made is true and correct.

Second-hand goods.

15. (*1*) The provisions of this section shall apply where—

(*a*) a registered dealer sells second-hand goods;

(*b*) the registered dealer has purchased goods from a resident seller who was not registered under this Regulation;

(*c*) the goods were purchased either as trading stock for re-sale in an unmodified form or otherwise or as raw material for incorporation or division into trading stock;

(*d*) the registered dealer will be liable to tax under section 3 on the sale of the goods or the goods into which they were incorporated, as the case may be; and

(*e*) the registered dealer has adequate proof of the amount paid for the goods.

(*2*) In the circumstances mentioned in sub-section (*1*), the registered dealer shall be entitled to a tax credit for the purposes of section 9 of the least of—

(*a*) the input tax borne by the resident seller when he purchased the goods;

(*b*) the tax fraction of the original cost of the goods to the resident seller;

(*c*) the tax fraction of the fair market value of the goods at the time of their purchase by the registered dealer; or

(*d*) the tax fraction of the consideration paid by the registered dealer for the goods.

(*3*) Where the amount paid by the registered dealer for the goods exceeds two thousand rupees, the tax credit shall be allowed in the tax period when the goods are sold by the registered dealer or the goods into which they have been incorporated are sold by the registered dealer.

Composition scheme for specified dealers.

16. (*1*) Notwithstanding anything contrary to this Regulation, every dealer whose—

(*a*) turnover in the year preceding the commencement; or

(*b*) turnover in the current year, does not exceed five lakh rupees or such other amount as may be specified by the Government by notification in the Official Gazette, shall have an option to pay tax under this section:

Provided that this sub-section shall not apply to dealers procuring goods from any place outside Andaman and Nicobar Islands or selling or supplying goods to any place outside Andaman and Nicobar Islands at any time during the year in which he opts to pay tax under this sub-section or if he is a registered dealer in the Andaman and Nicobar Islands under the Central Sales Tax Act, 1956: 74 of 1956.

Provided further that in case the Government has notified a composition scheme for a class of dealers under sub-section (*12*), such dealers shall not have an option to pay tax under this sub-section.

(*2*) At the time of making application for registration under section 19 of this Act, the dealer covered under sub-section (*1*) shall be required to specify if he intends to pay tax under this section:

Provided that once the dealer chooses to pay tax under this section, the option may be reversed only after the end of the year for which the option is made, by application to the Commissioner within such time and in such manner as may be prescribed:

Provided further that where a dealer chooses to reverse his option to pay tax under this section, he shall be eligible to claim credit of the tax paid under this Regulation on the trading stock, raw material and packaging material held by him in Andaman and Nicobar Islands on the date when such reversal takes effect subject to the conditions contained in section 20 in so far as they are applicable.

(*3*) In case a person who elects to pay tax under this section whose turnover in the year preceding the commencement of this Regulation does not exceed five lakh rupees or such other amount as may be specified by the Government by notification in the Official Gazette, he shall be required to specify the election to pay tax under this section within such time and in such manner as may be prescribed.

(*4*) Where a dealer elects to pay tax under this section, the dealer's net tax shall be the amount determined at the rate of one paisa in the rupee of the turnover of the dealer.

(*5*) A dealer who elects to pay tax under this section shall—

(*a*) not purchase goods from a person who is not registered under this Regulation;

(*b*) not compute his net tax under section 11;

(*c*) not be allowed to claim credit under section 9, section 14 and section 15;

(*d*) not be entitled to issue tax invoice;

(*e*) not be allowed to collect any amount by way of tax under this Regulation; and

(*f*) continue to retain tax invoices and retail invoices for all of his purchases as required under section 48.

(*6*) In case a person—

(*a*) whose turnover in the year preceding the commencement of this Regulation does not exceed five lakh rupees or such other amount as may be specified by the Government by notification in the Official Gazette; and

(*b*) who has opted to pay tax under this section in terms of sub-section (*3*) of this section,

he shall be required to pay tax on the goods held on the date of the commencement of this Regulation at the rates specified in section 4 on the fair market value of goods where such goods have not borne tax under the Port Blair Municipal Council Octroi Tax Bye-Laws.

(*7*) The tax due under sub-section (*6*) shall be paid at any time before the person specifies his intention to pay tax under this section.

(*8*) The proof of payment of tax referred to in sub-section (*6*) along with a statement of opening stock and finished goods in such form as may be prescribed shall be furnished to the Commissioner at the time the person specifies his intention to pay tax under this section.

(*9*) Subject to the other provisions, where a registered dealer pays tax at the rates specified in section 4, he may choose to pay tax under this section only from the beginning of the following year:

Provided that such registered dealer shall be required to pay tax at the rates specified in section 4 on the goods held by him on the first day of the said following year.

(*10*) If the turnover of a dealer who elects to pay tax under this section exceeds five lakh rupees or such other amount as may be specified by the Government by notification in the Official Gazette, he shall be liable to pay tax under section 3 on and from the day his taxable turnover exceeds five lakh rupees or such other amount as may be specified by the Government by notification in the Official Gazette and shall be entitled to claim credit of the input tax paid under this Regulation on goods held by him in Andaman and Nicobar Islands on such day:

Provided that such dealer has intimated the Commissioner within seven days of his becoming liable to pay tax under section 3 in the prescribed form and has furnished such other information to the Commissioner as may be prescribed.

(*11*) The Commissioner may notify a dealer or a class of dealers who shall not be entitled to opt for payment of tax under this section.

(*12*) Notwithstanding anything to the contrary contained in this Regulation, the Government may—

(*a*) by notification in the Official Gazette, notify schemes of composition, subject to such conditions and restrictions as may be specified therein, of tax payable by a class of dealers or classes of dealers and different types of schemes may be notified for different classes of dealers;

(*b*) specify, in any scheme of composition of tax payable by the class of dealers or classes of dealers, different rates of taxes for different class or classes of dealers but, in such scheme, the net tax liability of the dealer opting to pay tax thereunder shall not exceed eight paise in the rupee of the turnover of the dealer.

(*13*) (*a*) Notwithstanding anything to the contrary contained in this Regulation, a casual trader shall—

(*i*) at least three days before commencing business in Andaman and Nicobar Islands, inform the Commissioner of such particulars of his business in such form and manner as may be prescribed;

(*ii*) deposit security in cash or in the form of bank draft as may be fixed by the Commissioner which shall not exceed estimated liability to pay tax for seven days or such lesser period for which the casual trader is conducting the business in Andaman and Nicobar Islands;

(*iii*) pay tax daily on the sales made during the previous day;

(*iv*) furnish to the Commissioner, immediately after conclusion of his business in Andaman and Nicobar Islands, a return in the prescribed form and manner; and

(*v*) not issue any tax invoice.

(*b*) The Commissioner shall, after verification of information furnished to him under clause (*a*) of sub-section (*1*) and after getting security under clause (*b*) of that sub-section, shall register the casual trader.

(*c*) Upon registration of casual trader, the Commissioner may issue the required forms to him for use as the declaration referred to in sub-section (*3*) of section 61 for bringing goods for sale in Andaman and Nicobar Islands and for taking the unsold goods out of Andaman and Nicobar Islands and the casual trader shall render complete account of the used forms and surrender the unused forms along with the return referred to in clause (*d*) of sub-section (*1*) of section 13.

(*d*) The Commissioner shall, after examination of the return furnished by the casual trader under clause (*d*) of sub-section (*1*), the forms referred to in sub-section (*3*) and the accounts maintained by him including the retail invoices issued, assess him to tax within five days and shall serve upon him a notice of assessment and after adjusting any tax and any other dues payable under this Regulation, refund the balance amount of security to him in case security is deposited in the form of cash deposit.

(*e*) The casual trader shall pay immediately the amount mentioned in the notice of assessment.

(*f*) On being satisfied that the amount due has been paid, the Commissioner shall release the security or balance security, as the case may be.

(*g*) Notwithstanding anything contained in this Regulation, the taxable quantum in respect of a casual trader shall be *nil*.

Transactions between related parties.

17. If—

(*a*) a registered dealer sells or gives goods to a related person;

(*b*) the terms or conditions of the transaction have been influenced by the relationship; and

(*c*) the related person had purchased the goods, the related person would not be entitled to a tax credit for the purchase, or the amount of the tax credit would be reduced under sub-section (*3*) of section 9, the transaction shall be deemed to be a sale made by the registered dealer and the sale price of the goods shall be deemed to be their fair market value.

CHAPTER IV

REGISTRATION AND SECURITY

Mandatory and voluntary registration.

18. (*1*) Every dealer is required to apply for registration under this Regulation if—

(*a*) the dealer's turnover in the year preceding the commencement exceeded the taxable quantum; or

(*b*) the dealer's turnover in the current year exceeds the taxable quantum; or

(*c*) the dealer is liable to pay tax, or is registered or required to be registered under the Central Sales Tax Act, 1956: 74 of 1956.

Provided that a dealer dealing exclusively in goods mentioned in the First Schedule shall not be required to register.

(*2*) For the purposes, "taxable quantum" of a dealer shall be two lakh rupees, or such other amount as may be specified by the Government by notification in the Official Gazette:

Provided that a dealer who imports for sale any goods into Andaman and Nicobar Islands, the taxable quantum shall be "*Nil*" or such other amount as may be specified by the Government by notification in the Official Gazette.

(*3*) The taxable quantum of a dealer shall not include turnover from—

(*a*) the sales of capital assets;

(*b*) the sales made in the course of winding up the dealer's activities; and

(*c*) sales made as part of the permanent diminution of the dealer's activities.

(*4*) Any person who is not required by sub-section (*1*) to be registered but who—

(*a*) is a dealer; or

(*b*) intends from a particular date to undertake activities which would make him a dealer, may apply for registration.

Registration.

19. (*1*) An application for registration shall be made in the prescribed form, within such time, containing such particulars and information and accompanied by such fee, security and other documents as may be prescribed.

(*2*) Where—

(*a*) an applicant furnishes a security in the prescribed form and for the prescribed amount; and

(*b*) all other forms and evidence required by and prescribed under this Regulation are complete and in order, the Commissioner shall register the applicant.

(*3*) Where the Commissioner has not registered the person within fifteen days from the date on which the application is made, the Commissioner shall, after conducting such inquiries as he deems fit, either—

(*a*) register the person forthwith as a registered dealer; or

(*b*) issue a notice to the applicant, clearly stating the grounds on which his application is proposed to be rejected and permitting him to show cause in writing, within fifteen further days, why his application should not be rejected:

Provided that where the Commissioner has not registered the person or issued a notice by the required date, the applicant shall be deemed to be registered for the purposes, and the Commissioner shall issue a certificate of registration to such person.

(*4*) Where, pursuant to clause (*b*) of sub-section (*3*), the applicant furnishes a reply to the notice, the Commissioner may, either accept the application and register the person, or reject the application for reasons to be recorded in writing.

(*5*) If the applicant fails to respond to the notice issued under clause (*b*) of sub-section (*3*) within the stipulated time, the application for registration shall stand rejected.

(*6*) Where a registered dealer has furnished a security as a condition of registration, such security shall be required for the continuance in effect of registration, unless otherwise provided by the Commissioner.

Effect of registration.

20. (*1*) If at the time at which an unregistered dealer's registration takes effect after the commencement and—

(*a*) the dealer holds trading stock for the purpose of sale, or for use as raw materials for the production of finished goods;

(*b*) the dealer has borne input tax on the purchase of the trading stock or raw materials;

(*c*) the dealer furnishes a statement of its trading stock and raw materials in the prescribed form to the Commissioner; and

(*d*) the dealer holds adequate proof of the amount of input tax in respect of the purchases,

the dealer shall be entitled to a tax credit for the trading stock or raw materials held by the dealer on the date that the dealer's registration takes effect:

Provided that the dealer must claim the entire amount of tax credit to which he is entitled in a single claim, which accompanies the first return furnished by the dealer under this Regulation.

(*2*) For the purposes of sub-section (*3*) of section 9, the amount of the tax credit shall be the least of—

(*a*) the amount of input tax disclosed in the proof referred to in clause (*d*) of sub-section (*1*);

(*b*) the tax fraction of the cost of the goods; or

(*c*) the tax fraction of the fair market value of the goods at the time of registration; or

(*d*) such amount as may be prescribed.

(*3*) Where the registered dealer accounts for turnover on the basis of amounts received and amounts paid, he shall exclude from his turnover—

(*a*) any amount received after he is registered in respect of sales made while he was unregistered; and

(*b*) any amount paid after he is registered in respect of purchases made while he was unregistered.

Amendment of registration.

21. (*1*) A registered dealer shall inform the Commissioner in the prescribed manner within one month, if he—

(*a*) sells or otherwise disposes of his business or any part of his business or any place of business, or effects or comes to know of any other change in the ownership of the business; or

(*b*) discontinues his business or changes his place of business or warehouse, or opens a new place of business, or closes the business for a period of more than one month; or

(*c*) changes the name, style, constitution or nature of his business; or

(*d*) enters into partnership or other association in regard to his business or adds, deletes or changes the particulars of the persons having interest in business; and if any such registered dealer dies, his legal representative shall, in like manner, inform the said authority.

(*2*) The Commissioner may, after considering any information furnished under this Regulation or otherwise received and after making such inquiry as he may deem fit, amend from time to time any registration.

(*3*) An amendment of the registration made under sub-section (*2*) shall take effect from the date of contingency which necessitates the amendment whether or not information in that behalf is furnished within the time prescribed under sub-section (*1*).

(*4*) Any amendment of a registration under this section shall be without prejudice to any liability for tax or penalty imposable or for any prosecution for an offence under this Regulation.

(*5*) For the removal of doubts, it is hereby clarified that where a registered dealer—

(*a*) effects a change to the nature of the goods ordinarily sold;

(*b*) is a firm and there is a change in the constitution of the firm without dissolution thereof; or

(*c*) is a trustee of a trust and there is a change in the trustees thereof; or

(*d*) is a Hindu Undivided Family and the business of such family is converted into a partnership business with all or any of the members of the family as partners thereof; or

(*e*) is a firm or a company or a trust or other organisation, and a change occurs in the management of the organisation,

then, merely by reason of the circumstances aforesaid, it shall not be necessary for the registered dealer to apply for a fresh certificate of registration and on information being furnished the registration shall be amended.

Cancellation of registration.

22. (*1*) Where—

(*a*) a registered dealer who is required to furnish security under the provisions has failed to furnish or maintain such security;

(*b*) a registered dealer has ceased to carry on any activity which would entitle him to be registered as a dealer under this Regulation;

(*c*) an incorporated body is closed down or otherwise ceases to exist;

(*d*) the owner of a proprietorship business dies leaving no successor to carry on the business;

(*e*) in the case of a firm or association of persons, it is dissolved;

(*f*) registered dealer has ceased to be liable to pay tax under this Regulation;

(*g*) a registered dealer knowingly furnishes a return which is misleading or deceptive in a material particular;

(*h*) a registered dealer has committed one or more offences or contravened the provisions and the offence or contravention is, in the opinion of the Commissioner, of such magnitude that it is necessary to do so; or

(*i*) the Commissioner, after conducting proper inquiries, is of the view that it is necessary to do so,

the Commissioner may, after service of a notice in the prescribed form and after providing the dealer an opportunity of being heard, cancel the registration of the dealer with effect from the date specified by him in the notice.

(*2*) Where—

(*a*) a registered dealer has ceased to carry on any activity which would entitle him to be registered as a dealer under this Regulation;

(*b*) an incorporated body is closed down or otherwise ceases to exist;

(*c*) the owner of a proprietorship business dies leaving no successor to carry on business;

(*d*) in the case of a firm or association of persons, it is dissolved; or

(*e*) a registered dealer has ceased to be liable to pay tax under this Regulation,

the registered dealer or the dealer's legal representative in case of clause (*c*), shall apply for cancellation of his registration to the Commissioner in the manner and within the time prescribed.

(*3*) On receipt of such application, if the Commissioner is satisfied that the dealer has ceased to be entitled to be registered, he may cancel the registration.

(*4*) If a registered dealer ceases to be registered, the Commissioner shall cancel the dealer's registration with effect from a specified date.

(*5*) If a dealer's registration which has been cancelled under this section is reinstated as a result of an appeal or other proceeding under this Regulation, the registration of the

dealer shall be restored and he shall be liable to pay tax as if his registration had never been cancelled.

(*6*) If any registered dealer whose registration has been restored under sub-section (*5*) satisfies the Commissioner that excess tax has been paid by him during the period his registration was inoperative which but for the cancellation of his registration he would not have paid, then the amount of such tax shall be adjusted or refunded in such manner as may be prescribed.

(*7*) Every registered dealer who applies for cancellation of his registration shall surrender with his application the certificate of registration granted to him and every registered dealer whose registration is cancelled otherwise than on the basis of his application shall surrender the certificate of registration within seven days of the date of communication to him of the cancellation.

(*8*) The Commissioner shall, at intervals not exceeding three months, host on the departmental website, such particulars as may be prescribed, of registered dealers whose registration has been cancelled.

(*9*) The cancellation of registration shall not affect the liability of any person to pay tax due for any period and unpaid as on the date of such cancellation or which is assessed thereafter notwithstanding that he is not otherwise liable to pay tax under this Regulation.

Effect of de-registration.

23. (*1*) Every person whose registration is cancelled shall pay in respect of all goods held on the date of cancellation an amount equal to the higher of—

(*a*) the tax that would be payable in respect of those goods if the goods were sold at their fair market value on that date; or

(*b*) the tax credit previously claimed in respect of those goods.

(*2*) Where the dealer has accounted for turnover on the basis of amounts received and amounts paid, he shall include in the turnover of his final return—

(*a*) any amount not yet received in respect of sales made while he was registered; and

(*b*) any amount not yet paid in respect of purchases made while he was registered.

Registration during transition.

24. Every dealer who is registered under the Central Sales Tax Act, 1975, dealing in goods listed in the First Schedule. 43 of 1975.

Security from certain classes of dealers and other persons.

25. (*1*) The Commissioner may, if it appears to him to be necessary so to do, for the continuance of the certificate of registration, or for the proper realisation of tax, composition money or other dues payable under this Regulation or as a condition of registering a person as a dealer or as a condition of making a refund under section 38, or as a condition of de-sealing or release under sub-section (*4*) of section 60, require a person or prescribed class of persons to furnish security for the proper performance of their responsibilities under this Regulation or under the Central Sales Tax Act, 1956 in the prescribed amount, in the prescribed manner and within such time as may be prescribed. 74 of 1956.

(*2*) Notwithstanding anything contained in sub-section (*1*), the Commissioner may increase, vary, reduce or waive the prescribed amount of the security, having regard to—

(*a*) the nature and size of the business activities of the person;

(*b*) the amount of any tax, interest or penalty for which the person may be or is likely to become liable at any time under this Regulation;

(*c*) the creditworthiness of the person;

(*d*) the nature of the security; and

(*e*) any other matter which the Commissioner considers relevant.

(*3*) Where the security or additional security furnished by a person is in the form of a surety bond and the surety dies or becomes insolvent, the person shall within one month of the occurrence of such event, inform the Commissioner and shall within three months of such occurrence, execute a fresh surety bond.

(*4*) Where the surety bond has been executed by another registered dealer and the dealer's registration is either cancelled or he has closed down his business, the person shall furnish a fresh security as may be prescribed and in the manner as stated in sub-section (*3*).

(*5*) The Commissioner may, for good and sufficient cause, order the forfeiture of the whole or any part of the security furnished by a person.

(*6*) Where the security furnished by any person is forfeited in whole or is rendered insufficient, he shall furnish a fresh security of the requisite amount or, as the case may be, shall make up the deficiency in such manner and within such period as may be specified.

CHAPTER V

RETURNS

Periodical payment of tax and furnishing of returns.

26. Every registered dealer who is liable to pay tax under this Regulation shall furnish to the Commissioner such returns for each tax period and by such dates and in such form and manner as may be prescribed.

Power to require other returns.

27. In addition to the returns specified in section 26, the Commissioner may require any person, whether a registered dealer or not, to furnish (whether on that person's own behalf or as an agent or trustee) him with such other returns in the prescribed form as and when the Commissioner requires.

Correction of deficiencies.

28. If a person discovers a discrepancy in a return furnished by him for a tax period under this Regulation, he shall remove such discrepancy and furnish a revised return within the year following the year of such tax period:

Provided that if, as a result of the discrepancy, the person has paid less tax than was due under this Regulation, he shall, pay the tax owed and interest thereon.

Signing returns.

29. Every return under this Chapter shall be signed and verified—

(*a*) in the case of an individual, by the individual himself, and where the individual is absent from India, either by the individual or by some person duly authorised by him in this behalf and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(*b*) in the case of a Hindu Undivided Family, by a *Karta* and where the *Karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

(*c*) in the case of a company or local authority, by the principal officer thereof;

(*d*) in the case of a firm, by any partner thereof, not being a minor;

(*e*) in the case of any other association, by any member of the association or persons;

(*f*) in the case of a trust, by the trustee or any trustee; and

(*g*) in the case of any other person, by some person competent to act on his behalf.

CHAPTER VI

ASSESSMENT AND PAYMENT OF TAX, INTEREST AND PENALTIES AND MAKING REFUNDS

Assessment of tax, interest or penalty.

30. No claim may be made by the Commissioner for the payment by a person of an amount of tax, interest or penalty or other amount in the nature of tax, interest or penalty due under this Regulation except by the making of an assessment for the amount.

Self assessment.

31. (*1*) Where a return is furnished by a person as required under section 26 or section 27 which contains the prescribed information and complies with the requirements of this Regulation and the rules—

(*a*) the Commissioner is taken to have made, on the day on which the return is furnished, an assessment of the tax payable of the amount specified in the return;

(*b*) the return is deemed to be a notice of the assessment and to be under the hand of the Commissioner; and

(*c*) the notice referred to in clause (*b*) is deemed to have been served on the person on the day on which the Commissioner is deemed to have made the assessment.

(*2*) No assessment shall arise under sub-section (*1*), if the Commissioner has already made an assessment of tax in respect of the same tax period under any other provision of this Regulation.

Default assessment of tax payable.

32. (*1*) If any person—

(*a*) has not furnished returns required under this Regulation by the prescribed date; or

(*b*) has furnished incomplete or incorrect returns; or

(*c*) has furnished a return which does not comply with the requirements of this Regulation; or

(*d*) for any other reason the Commissioner is not satisfied with the return furnished by a person,

the Commissioner may for reasons to be recorded in writing assess or reassess to the best of his judgment the amount of net tax due for a tax period or more than one tax period by a single order so long as all such tax periods are comprised in one year.

(*2*) If, upon the information which has come into his possession, the Commissioner is satisfied that any person who has been liable to pay tax under this Regulation in respect of any period or periods, has failed to get himself registered, the Commissioner may for reasons to be recorded in writing, assess to the best of his judgment the amount of net tax due for such tax period or tax periods and all subsequent tax periods.

(*3*) Where the Commissioner has made an assessment under this section, the Commissioner shall forthwith serve on that person a notice of assessment of the amount of any additional tax due for that tax period.

(*4*) Where the Commissioner has made an assessment under this section and further tax is assessed as owed, the amount of further tax assessed is due and payable on the same date as the date on which the net tax for the tax period was due.

Assessment of penalty.

33. (*1*) Where the Commissioner has reason to believe that a liability to pay a penalty under this Regulation has arisen, the Commissioner, after recording the reason in writing, shall make and serve on the person a notice of assessment of the penalty that is due under this Regulation.

(*2*) The amount of any penalty assessed under this section is due and payable on the date on which the notice of assessment is served by the Commissioner.

(*3*) Any assessment made under this section shall be without prejudice to prosecution for any offence under this Regulation.

Limitation on assessment and re-assessment.

34. (*1*) No assessment or re-assessment shall be made by the Commissioner after the expiry of four years from—

(*a*) the end of the year comprising of one or more tax periods for which the person furnished a return under section 26 or section 28; or

(*b*) the date on which the Commissioner made an assessment of tax for the tax period, whichever is the earlier:

Provided that where the Commissioner has reason to believe that tax was not paid by reason of concealment, omission or failure to disclose fully material particulars on the part of the person, the said period shall stand extended to six years.

(*2*) Notwithstanding anything contained in sub-section (*1*) the Commissioner may make an assessment of tax within one year after the date of any decision of the Appellate Tribunal or court where the assessment is required to be made in consequence of, or to give effect to, the decision of the Appellate Tribunal or court which requires the re-assessment of the person.

Collection of assessed tax and penalties.

35. (*1*) Subject to provisions of sub-sections (*2*) and (*4*), where an amount of tax or penalty has been assessed under section 32 or 33, the Commissioner may not proceed to enforce payment of the amount assessed until two months after the date of service of the notice of assessment.

(*2*) Where a person has made an objection to an assessment or part of an assessment and has complied with the condition, if any, to entertain such objection in the manner provided in section 74, the Commissioner may not enforce the payment of balance amount in dispute under that assessment until the objection is resolved by the Commissioner.

(*3*) Nothing in this section shall stay any proceedings by the Commissioner or before a court for the recovery of—

(*a*) any amounts due under this Regulation that are not the subject of a dispute before the Commissioner; or

(*b*) any amounts due under this Regulation where the person has made an appeal to the Appellate Tribunal.

(*4*) Notwithstanding anything contained in sub-section (*1*), where an amount of tax or penalty has been assessed by the Commissioner and he is satisfied that there is a likelihood that it may not be possible to recover the amount assessed if collection is delayed, the Commissioner may specify a date in the notice of assessment as the date on which collection of the amounts due and payable may commence which is earlier than two months after the date of service of the notice of assessment.

Manner of payment of tax, penalties and interest.

36. Every person liable to pay tax, interest, penalty or any other amount under this Regulation shall pay the amount to the Government Treasury of Andaman and Nicobar Islands, a branch in Andaman and Nicobar Islands of a bank prescribed under the rules, or at such other place or in such other manner as may be prescribed.

Order of application of payments.

37. Where a person owes to the Commissioner tax, interest, or penalty and the person pays to the Commissioner or the Commissioner recovers some but not all of the amounts owed by the person, the amounts shall be treated as reducing the person's obligations to pay—

(*a*) interest, penalty and tax owed under this Regulation; and

74 of 1956.

(*b*) interest, penalty and tax owed under the Central Sales Tax Act, 1956,

in the above order.

Refunds.

38. (*1*) Subject to the other provisions of this Regulation and the rules, the Commissioner shall refund to a person the amount of tax, penalty and interest, if any, paid by such person in excess of the amount due from him.

(*2*) Before making any refund, the Commissioner shall first apply such excess towards the recovery of any other amount due under this Regulation, or under the Central Sales Tax Act, 1956.

74 of 1956.

(*3*) Subject to the provisions of sub-section (*4*) and sub-section (*5*), any amount remaining after the application referred to in sub-section (*2*) shall be at the election of the dealer, either—

(*a*) refunded to the person,—

(*i*) within one month after the date on which the return was furnished or claim for the refund was made, if the tax period for the person claiming refund is one month;

(*ii*) within two months after the date on which the return was furnished or claim for the refund was made, if the tax period for the person claiming refund is a quarter; or

(*b*) carried forward to the next tax period as a tax credit in that period.

(*4*) Where the Commissioner has issued a notice to the person under section 58 advising him that an audit, investigation or inquiry into his business affairs shall be undertaken or sought additional information under section 59 of this Regulation, the amount shall be carried forward to the next tax period as a tax credit in that period.

(*5*) The Commissioner may, as a condition of the payment of a refund, demand security from the person pursuant to the powers conferred in section 25 within fifteen days from the date on which the return was furnished or claim for the refund was made.

(*6*) The Commissioner shall grant refund within fifteen days from the date the dealer furnishes the security to his satisfaction under sub-section (*5*).

(*7*) For calculating the period prescribed in clause (*a*) of sub-section (*3*), the time taken to—

(*a*) furnish the security under sub-section (*5*) to the satisfaction of the Commissioner; or

(*b*) furnish the additional information sought under section 59; or

(*c*) furnish returns under section 26 and section 27; or

(*d*) furnish the declaration or certificate forms as required under the Central Sales Tax Act, 1956, shall be excluded. 74 of 1956.

(*8*) Notwithstanding anything contained in this section, where—

(*a*) a registered dealer has sold goods to an unregistered person;

(*b*) the price charged for the goods includes an amount of tax payable under this Regulation; and

(*c*) the dealer is seeking the refund of this amount or to apply this amount under clause (*b*) of sub-section (*3*),

no amount shall be refunded to the dealer or may be applied by the dealer under clause (*b*) of sub-section (*3*) unless the Commissioner is satisfied that the dealer has refunded the amount to the purchaser.

(*9*) Where—

(*a*) a registered dealer has sold goods to another registered dealer; and

(*b*) the price charged for the goods expressly includes an amount of tax payable under this Regulation,

the amount may be refunded to the seller or may be applied by the seller under clause (*b*) of sub-section (*3*) and the Commissioner may reassess the buyer to deny the amount of the corresponding tax credit claimed by such buyer, whether or not the seller refunds the amount to the buyer.

(*10*) Where a registered dealer sells goods and the price charged for the goods is expressed not to include an amount of tax payable under this Regulation the amount may be refunded to the seller or may be applied by the seller under clause (*b*) of sub-section (*3*) without the seller being required to refund an amount to the purchaser.

(*11*) Notwithstanding anything to the contrary contained in sub-section (*3*), no refund shall be allowed to a dealer who has not filed any return due under this Regulation.

Power to withhold refund in certain cases.

39. (*1*) Where a person is entitled to a refund and any proceeding under this Regulation, including an audit under section 58, is pending against him, and the Commissioner is of the opinion that payment of such refund is likely to adversely affect the revenue and that it may not be possible to recover the amount later, the Commissioner may for reasons to be recorded in writing, either obtain a security equal to the amount to be refunded to the person or withhold the refund till such time the proceeding or the audit has been concluded.

(*2*) Where a refund is withheld under sub-section (*1*), the person shall be entitled to interest as provided under sub-section (*1*) of section 42 if as a result of the appeal or further proceeding, or any other proceeding he becomes entitled to the refund.

Collection of tax only by registered dealers.

40. (*1*) No person who is not a registered dealer shall collect in respect of any sale of goods by him in Andaman and Nicobar Islands any amount by way of tax under this Regulation and no registered dealer shall make any such collection except in accordance with this Regulation and the rules made thereunder and at the rates specified under this Regulation.

(*2*) Tax collected by a person who is not a registered dealer shall not be refunded and shall stand forfeited.

Refund of tax for embassies, officials, international and public organisations.

41. (*1*) The bodies listed in the Fourth Schedule shall be entitled to claim a refund of tax paid on goods purchased in Andaman and Nicobar Islands, subject to such restrictions and conditions as may be prescribed.

(*2*) Any person entitled to a refund under sub-section (*1*) may apply to the Commissioner in the manner and within the time prescribed.

Interest.

42. (*1*) A person entitled to a refund under this Regulation, shall be entitled to receive, in addition to the refund, simple interest at the annual rate notified by the Government from time to time, computed on a daily basis from—

(*a*) the date that the refund was due to be paid to the person; or

(*b*) the date that the overpaid amount was paid by the person,

whichever is later, and such interest shall be calculated upon the date on which the refund is given:

Provided that the interest shall be calculated on the amount of refund due after deducting therefrom any tax, interest, penalty or any other dues under this Regulation, or under the Port Blair Municipal Council Octroi Tax Bye-Laws:

Provided further that if the amount of such refund is enhanced or reduced, as the case may be, such interest shall be enhanced or reduced accordingly.

(*2*) When a person is in default in making the payment of any tax, penalty or other amount due under this Regulation, he shall, in addition to the amount assessed, be liable to pay simple interest on such amount at the annual rate notified by the Government from time to time, computed on a daily basis, from the date of such default for so long as he continues to make default in the payment of the said amount.

(*3*) Where the amount of tax including any penalty due is wholly reduced, the amount of interest, if any, paid shall be refunded, or if such amount is varied, the interest due shall be calculated accordingly.

(*4*) Where the collection of any amount is stayed by the order of the Appellate Tribunal or any court or any other authority and the order is subsequently vacated, interest shall be payable for any period during which such order remained in operation.

(*5*) The interest payable by a person under this Regulation may be collected as tax due under this Regulation and shall be due and payable once the obligation to pay interest has arisen.

CHAPTER VII

RECOVERY OF TAX, INTEREST AND PENALTIES

Recovery of tax.

43. (*1*) The amount of any tax, interest, penalty or other amount due under this Regulation shall be paid in the manner specified in section 36 and a notice of assessment served on the person for such an amount shall constitute a demand for payment of the amount stated in the assessment by the time stipulated in the notice of assessment.

(*2*) On an application made before the expiry of the due date under section 35, the Commissioner may, in respect of any dealer or person and for reasons to be recorded in writing, extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

(*3*) Any amount of tax, interest or penalty, composition money or other amount due under this Regulation which remains unpaid, shall be recoverable—

(*a*) as arrears of land revenue, or

(*b*) by the Commissioner in accordance with the provisions of sub-section (*6*) and the rules regulating the procedure of recovery of tax, interest or penalty, composition money or other amount due as may be prescribed.

(*4*) Where security, other than in the form of surety bond, has been furnished under the Regulation, the Commissioner may, for reasons to be recorded in writing, recover any amount of tax, interest, penalty, composition money or other amount due or part thereof by ordering the forfeiture of the whole or any part of the security.

(*5*) Where any security tendered for the purposes is to be sold, it shall be sold in the manner stipulated in section 63.

(*6*) Where any amount of tax, interest or penalty, composition money or other amount due under this Regulation is recoverable in accordance with the provisions of clause (*b*) of sub-section (*3*), the Commissioner may prepare a recovery certificate (hereafter in this Chapter referred to as "certificate") under his signature specifying the amount of such tax, interest or penalty, composition money or other amount due from the dealer, casual dealer, transporter, carrier or transporting agent, owner or lessee or occupier of warehouse, owner of any goods or any other person (hereafter in this Chapter referred to as the "certificate-debtor") and he shall cause the said certificate to be served upon the certificate-debtor, in such manner and form as may be prescribed and proceed to recover from the certificate-debtor the amount specified in the certificate by one or more of the following modes in accordance with the rules as may be prescribed—

(*a*) attachment and sale of movable property of the certificate-debtor;

(*b*) attachment and sale of immovable property of the certificate-debtor;

(*c*) arrest of the certificate-debtor and his detention in prison for a period of fifteen days;

(*d*) appointing a receiver for the management of the movable and immovable properties of the certificate-debtor.

(*7*) The Commissioner may serve upon the defaulter the recovery certificate under sub-section (*6*), notwithstanding that proceedings for recovery of such tax, interest or penalty, composition money or other amount due have been initiated or continuing by any other mode.

(*8*) On the service of the certificate under sub-section (*6*) upon a certificate-debtor—

(*a*) any private transfer or delivery of any of his immovable property or of any interest in any such property, shall be void against any claim enforceable in the execution of the certificate; and

(*b*) the amount due from time to time in respect of the certificate shall be a charge upon the immovable property of the certificate-debtor, to which every other charge created subsequently to the service of the said certificate shall be postponed.

(*9*) The certificate-debtor may, within thirty days from the service of the certificate, present to the Commissioner a petition denying his liability in whole or in part.

(*10*) The Commissioner shall hear the petition, take evidence, if necessary, and determine whether the certificate-debtor is liable for the whole or any part of the amount for which certificate was signed.

(*11*) Where any proceedings for the recovery of any tax, interest or penalty, composition money or other amount due remaining unpaid have been commenced under this section and the tax, interest or penalty, composition money or other amount due is subsequently modified, enhanced or reduced in consequence of any assessment made, or order passed on objection, appeal, revision or review under this Regulation, the Commissioner may inform the certificate-debtor and thereupon such proceedings may be continued as if the tax, interest or penalty, composition money or other amount due as so modified, enhanced or reduced has been substituted for the tax, interest or penalty, composition money or other amount due which was to be recovered under sub-section (*3*).

Application of the Andaman and Nicobar Islands Land Revenue and Land Reforms Regulation, 1966 for purposes of recovery.

44. (*1*) For the purposes of recovery of any amount recoverable as arrears of land revenue under this Regulation, the provisions of the Andaman and Nicobar Islands Land Revenue and Land Reforms Regulation, 1966, as to the recovery of arrears of land revenue shall, notwithstanding anything contained in that Regulation or in any other enactment, be deemed to be in force throughout the Andaman and Nicobar Islands and the provisions of the Revenue Recovery Act, 1890 shall have effect accordingly.

Reg. 2 of 1966.

1 of 1890.

(*2*) For the purposes of sub-section (*1*)—

(*a*) the Additional Commissioner of Value Added Tax and the Joint Commissioner of Value Added Tax shall have and exercise all the powers and perform all the duties of the Deputy Commissioner under the Andaman and Nicobar Islands Land Revenue and Land Reforms Regulation, 1966;

Reg. 2 of 1966.

(*b*) the Deputy Commissioner of Value Added Tax and the Assistant Commissioner of Value Added Tax shall have and exercise all the powers and perform all the duties of Assistant Commissioner or Assistant Commissioner (Settlement) under the said Regulation;

(*c*) the Value Added Tax Officers and the Assistant Value Added Tax Officers shall have and exercise all the powers and perform all the duties of Tehsildar under the said Regulation.

Continuation of certain recovery proceedings.

45. Where an assessment or notice of demand in respect of any tax, penalty or other amount payable under this Regulation (hereafter in this section referred to as "government dues") is served upon any person and any objection or appeal is initiated by the person against the assessment or demand for such government dues then—

(*a*) if the objection or appeal is disallowed in whole or in part, any recovery proceedings taken for the recovery of such government dues before the making of the objection or appeal, may, without the service of any fresh assessment or notice of demand, be continued from the stage at which such recovery proceedings stood immediately before the person made the objection or appeal; or

(*b*) where such government dues are reduced in any objection or appeal—

(*i*) it shall not be necessary for the Commissioner to serve upon the person a fresh assessment or notice of demand;

(*ii*) the Commissioner shall give intimation of such reduction to him and to the person with whom recovery proceedings are pending;

(*iii*) any recovery proceedings initiated on the basis of an assessment or notice of demand served upon a person before the disposal of such objection or appeal, may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before the person made the objection or appeal; and

(*c*) no recovery proceedings in relation to such Government dues shall be invalid by reason only that no fresh notice of demand was served upon the dealer or person after the disposal of such objection or appeal or such Government dues have been enhanced or reduced in such objection or appeal.

Special mode of recovery.

46. (*1*) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the person at his last known address, require,—

(*a*) any person from whom any amount of money is due, or may become due, to the person (in this section called "the taxpayer") liable to pay tax, interest or penalties under section 45; or

(*b*) any person who holds or may subsequently hold money for or on account of the taxpayer, to pay to the Commissioner, either forthwith upon the money becoming due or being held or within the time specified in the first mentioned notice (but not before the money becomes due or is held as aforesaid) so much of the money as is sufficient to pay the amount due by the taxpayer in respect of the arrears of tax, interest and penalty under this Regulation, or the whole of the money when it is equal to or less than that amount.

(*2*) The Commissioner may amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(*3*) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the taxpayer, and the receipt thereof by the Commissioner shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount specified in the receipt.

(*4*) Any person discharging any liability to the taxpayer after receipt of the notice referred to in this section, shall be personally liable to the Commissioner to the extent of the liability discharged or to the extent of the liability of the dealer for tax and penalty, whichever is less.

(*5*) Where a person to whom a notice under this section is sent, proves to the satisfaction of the Commissioner that the sum demanded or any part thereof is not due to the taxpayer or that he does not hold any money for or on account of the taxpayer, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Commissioner.

(*6*) Any amount of money which the aforesaid person is required to pay to the Commissioner, or for which he is personally liable to the Commissioner under this section shall, if it remains unpaid, be recoverable as if arrears of land revenue.

(*7*) The Commissioner may apply to the court in whose custody there is money belonging to the taxpayer for payment to him of the entire amount of such money or if it is more than the tax, interest and penalty, if any, due, an amount sufficient to discharge such tax and the penalty.

(*8*) (*a*) Where, during the course of inquiry of any proceeding including any proceeding for recovery of any amount due in respect of any person or dealer or during any inspection or search in relation to the business of any person or dealer under this Regulation, the Commissioner is of the opinion that for the purpose of protecting the interest of the revenue it is necessary so to do, he may, notwithstanding anything contained in any law for the time being in force or any contract to the contrary, by order in writing, attach provisionally any property movable or immovable, belonging to such person or dealer.

(*b*) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (*1*):

Provided that the Commissioner may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed two years:

Provided further that the Commissioner may, by an order, revoke such order if the person or the dealer furnishes to the Commissioner, a Bank Guarantee in such time, for such period as may be specified by the Commissioner in this behalf:

Provided also that the power under this section shall be exercised by the Commissioner himself or by the Additional Commissioner to whom the Commissioner has delegated such power.

Transfer of assets during pendency of proceedings void.

47. Where, during the pendency of any proceedings for the recovery of an amount owed by a person under this Regulation, that person creates a charge on or parts with the possession by way of sale, mortgage, gift or exchange or any other mode of transfer whatsoever, any of his assets in favour of any other person, such charge or transfer shall be void against any claim by the Commissioner in respect of the amount which is the subject of proceedings, unless the other person—

(*a*) acted *bona fide* and without notice of the recovery proceedings; and

(*b*) has paid the fair market value for the assets.

CHAPTER VIII

ACCOUNTS AND RECORDS

Records and accounts.

48. (*1*) Every dealer or person, on whom a notice has been served to furnish returns under section 27, shall prepare, maintain and retain sufficient records at the principal place of business as recorded in his certificate of registration to allow the Commissioner to readily ascertain the amount of tax due under this Regulation, and to explain all transactions, events and other acts engaged in by the person that are relevant for any purpose:

Provided that the dealer maintaining computerised books of account using a software should be able to readily provide soft or hard copy of the records at the principal place of business as recorded in his certificate of registration, as and when required by the Commissioner.

(*2*) Notwithstanding anything contained in sub-section (*1*)—

(*a*) every registered dealer shall preserve a copy of all tax invoices issued by him;

(*b*) every dealer shall preserve the original of all tax invoices received by him; and

(*c*) every person who has paid an amount of tax, interest, penalty or other amount owed under this Regulation, shall preserve a copy of the challan evidencing the making of the payment.

(*3*) The Commissioner may prescribe the manner and form in which accounts and records are to be prepared.

(*4*) If the Commissioner considers that such records are not sufficiently clear and intelligible to enable him to make a proper check of the obligations required of the person under this Regulation, he may require such person by notice in writing to keep such accounts (including records of purchase and sales) as may be specified therein.

(*5*) The Commissioner may, by notification in the Official Gazette, direct any class of dealers, transporters or operators of warehouses to keep such accounts (including records of purchases and sales) as may be specified in the notification.

(*6*) Every person required to prepare or preserve records and accounts shall retain the required records and accounts for, at least, seven years after the conclusion of the events or transactions which they record unless any proceedings in respect of that year are pending in which case they shall be preserved till the final decision in those proceedings. Any loss thereof shall be reported to the Police and the Commissioner within a period of fifteen days from the date of occurrence.

Accounts to be audited in certain cases.

49. If, in respect of any particular year, the gross turnover of a dealer exceeds sixty lakh rupees or such other amount as may be prescribed, then, such dealer shall submit a report in such manner, form and period as may be notified by the Commissioner.

Tax invoices.

50. (*1*) A registered dealer making a sale liable to tax under this Regulation shall, at the request of the purchaser, provide the purchaser at the time of sale with a tax invoice containing the particulars specified in sub-section (*2*) and retain a copy thereof:

Provided that a tax invoice shall not be issued by a dealer who—

(*a*) elects to pay tax under section 16; or

(*b*) is making the sale in the course of inter-state trade or commerce or export:

Provided further that not more than one tax invoice shall be issued for each sale:

Provided also that if an invoice has been issued under the provisions of the Central Excise Act, 1944, it shall be deemed to be a tax invoice if it contains the particulars specified in sub-section (*2*). 1 of 1944.

(*2*) The tax invoice issued under sub-section (*1*) shall contain the following particulars on the original as well as copies thereof—

(*a*) the words 'tax invoice' in a prominent place;

(*b*) the name, address and registration number of the selling registered dealer;

(*c*) the name and address of the purchaser and his registration number, where the purchaser is a registered dealer;

(*d*) an individual pre-printed serialised number and the date on which the tax invoice is issued:

Provided that a dealer may maintain separate numerical series, with distinct codes either, as a prefix or suffix, for each place of business in case the dealer has more than one place of business in Andaman and Nicobar Islands or for each product in case he deals in more than one product or both:

Provided further that such numerical series may be granted by the Commissioner, in such manner and from such date as may be notified by him;

(*e*) description, quantity, volume and value of goods sold and services provided and the amount of tax charged thereon indicated separately;

(*f*) the signature of the selling dealer or his servant, manager or agent, duly authorised by him; and

(*g*) the name and address of the printer and first and last serial number of tax invoices printed and supplied by him to the dealer.

(*3*) A tax invoice in respect of a sale shall be issued in duplicate, the original shall be issued to the purchaser (or the person taking the delivery, as the case may be) and the duplicate shall be retained by the selling dealer.

(*4*) Except when a tax invoice is issued under sub-section (*1*), if a dealer sells any

goods exceeding such amount in value as may be prescribed, in any one transaction to any person, he shall issue to the purchaser a retail invoice containing the particulars specified in sub-section (*5*) and retain a copy thereof.

(*5*) The retail invoice issued under sub-section (*4*) shall contain the following particulars on the original as well as copies thereof—

(*a*) the words 'retail invoice' or 'cash memorandum' or 'bill' in a prominent place;

(*b*) the name, address and registration number of the selling dealer, if registered;

(*c*) in case the sale is in the course of inter-state trade or commerce, the name, registration number and address of the purchasing dealer and type of statutory form, if any, against which the sale has been made;

(*d*) an individual pre-printed serialised number and the date on which the retail invoice is issued:

Provided that a dealer may maintain separate numerical series with distinct codes, either as prefix or suffix, for each place of business, in case the dealer has more than one place of business in Andaman and Nicobar Islands or for each product in case he deals in more than one product or both:

Provided further that such numerical series may be granted by the Commissioner, in such manner and from such date as may be notified by him;

(*e*) description, quantity, volume and value of goods sold and services provided and the amount of tax charged thereon indicated separately; and

(*f*) the signature of the selling dealer or his servant, manager or agent, duly authorised by him.

(*6*) Retail invoice shall be issued in duplicate, the original shall be issued to the purchaser and the copy shall be retained by the selling dealer.

(*7*) The Commissioner may, by notification in the Official Gazette, specify the manner and form in which the particulars on a tax invoice or retail invoice are to be recorded.

(*8*) If a purchaser claims to have lost the original tax invoice, the selling dealer may, subject to such conditions and restrictions as may be prescribed, provide a copy clearly marked as a duplicate.

Credit and debit notes.

51. Where a tax invoice has been issued in respect of a sale and—

(*a*) the amount shown as tax in that tax invoice exceeds the tax payable in respect of the sale, the dealer shall provide the purchaser with a credit note, containing such particulars as may be prescribed; or

(*b*) the tax payable in respect of the sale exceeds the amount shown as tax on the tax invoice,

the dealer shall provide the purchaser with a debit note, containing such particulars as may be prescribed.

CHAPTER IX

LIABILITY IN SPECIAL CASES

Liability in case of transfer of business.

52. (*1*) Where a dealer liable to pay tax under this Regulation transfers his business in whole or in part, by sale, gift, lease, leave or licence, hire or in any other manner whatsoever, the dealer and the person to whom the business is so transferred shall jointly and severally be liable to pay the tax, interest or penalty due from the dealer up to the time of such transfer, whether such amount has been assessed before such transfer, but has remained unpaid or is assessed thereafter.

(*2*) Where the transferee or the lessee of a business referred to in sub-section (*1*) carries on such business either in his own name or in some other name, he shall be liable to

pay tax on the sale of goods effected by him with effect from the date of such transfer and shall, if he is registered as a dealer, apply within the time specified in section 21 for the amendment of his registration.

Liability in case of company in liquidation.

53. (*1*) Every person—

(*a*) who is a liquidator of any company which is being wound up, whether under the orders of a court or otherwise; or

(*b*) who has been appointed the receiver of any assets of a company (hereafter in this section referred to as the "liquidator"),

shall, within one month after he has become such liquidator, give notice of his appointment as such to the Commissioner.

(*2*) The Commissioner shall, after making such inquiries or calling for such information as he may deem fit, notify the liquidator within three months from the date on which he received notice of the appointment of the liquidator, the amount which, in the opinion of the Commissioner, would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter, to become payable by the company.

(*3*) The liquidator shall not part with any of the assets of the company or the properties in his hand until he has been notified by the Commissioner under sub-section (*2*) and on being so notified, the liquidator shall set aside an amount equal to the amount notified and, until he so sets aside such amount, he shall not part with any of the assets of the company or the properties in his hand:

Provided that nothing contained in this sub-section shall debar the liquidator from parting with such assets or properties in compliance with any order of a court or for the purpose of the payment of the tax and penalty, if any, payable by the company under this Regulation or for making any payment to secured creditors whose debts are entitled under law to priority of payments over debts due to government on the date of liquidation or for meeting such costs and expenses of the winding up of the company as are in the opinion of the Commissioner reasonable.

(*4*) If the liquidator fails to give notice in accordance with sub-section (*1*) or fails to set aside the amount as required by sub-section (*3*) or parts with any assets of the company or the properties in his hand in contravention of the provisions of that sub-section, he shall be personally liable for the payment of tax and penalty, if any, which the company would be liable to pay under this Regulation:

Provided that if the amount of tax and penalty, if any, payable by the company is notified under sub-section (*2*) the personal liability of the liquidator under this sub-section shall be to the extent of such amount.

(*5*) Where there is more than one liquidator, the obligations and liabilities attached to a liquidator under this section shall attach to all the liquidators jointly and severally.

(*6*) When any private company is wound up and any tax and penalty, if any, assessed under this Regulation on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of the private company at any time during the period for which the tax is due, shall be jointly and severally liable for the payment of such tax and penalty, if any, unless he proves to the satisfaction of the Commissioner that non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(*7*) The provisions shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

(*8*) For the purposes of this section, the expressions "company" and "private company" shall have the meanings respectively assigned to them under clauses (*20*) and (*68*) of section 2 of the Companies Act, 2013. 18 of 2013.

Liability of partners of firm to pay tax.

54. Notwithstanding any contract to the contrary, where any firm is liable to pay any tax, interest or penalty under this Regulation, the firm and each of the partners of the firm shall be jointly and severally liable for such payment:

Provided that where any such partner retires from the firm, he shall intimate the date of his retirement to the Commissioner by a notice to that effect in writing and he shall be liable to pay tax, interest or penalty remaining unpaid at the time of his retirement and any tax, interest or penalty due up to the date of his retirement though unassessed on that date:

Provided further that if no such intimation is given within fifteen days from the date of retirement, the liability of the partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

Liability of guardians, trustees, etc.

55. Where the business in respect of which tax is payable under this Regulation is carried on by, or is in the charge of any guardian, trustee or agent of a minor or other incapacitated person on his behalf and for the benefit of such minor or other incapacitated person, the tax, interest or penalty shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same extent as it would be assessed upon and recoverable from any such minor or other incapacitated person, if he were of full age and of sound mind and if he were conducting the business himself, and all the provisions shall, so far as may be, apply accordingly.

Liability of Court of Wards, etc.

56. Where the estate or any portion of the estate of a dealer owning a business in respect of which tax is payable under this Regulation is under the control of the Court of Wards, the Administrator-General, the Official Trustee or any receiver or manager (including any person, whatever be his designation, who in fact manages the business) appointed by or under any order of a court, the tax, interest or penalty shall be levied upon and be recoverable from such Court of Wards, Administrator-General, Official Trustee, receiver or manager in like manner and to the same extent as it would be assessable upon and be recoverable from the dealer if he were conducting the business himself, and all the provisions shall, so far as may be, apply accordingly.

Liability in other cases.

57. (*1*) Where a dealer is a firm or an association of persons or a Hindu Undivided Family, and such firm, association or family has discontinued business—

(*a*) the tax payable under this Regulation, by such firm, association or family up to the date of such discontinuance may be assessed as if no such discontinuance had taken place; and

(*b*) every person who was at the time of such discontinuance a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance be liable jointly and severally for the payment of tax assessed and penalty imposed and payable by such firm, association or family, whether such tax, interest or penalty has been assessed prior to or after such discontinuance, and subject as aforesaid, the provisions shall, so far as may be, apply as if every such person or partner or member were himself a dealer:

Provided that where the partner of a firm liable to pay such tax, interest or penalty dies, the provisions of sub-section (*4*) shall, so far as may be, apply.

(*2*) Where a change has occurred in the constitution of a firm or an association of persons, the partners of the firm or members of the association as it existed before and as it exists after its reconstitution shall, without prejudice to the provisions of section 54, jointly and severally be liable to pay tax, interest or penalty due from such firm or association for any period before its reconstitution.

(*3*) The provisions of sub-section (*1*) shall, so far as may be, apply where the dealer, being a firm or association of persons is dissolved or, being a Hindu Undivided Family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as references to dissolution or, as the case may be, to partition.

(*4*) Where a dealer liable to pay tax under this Regulation dies, then—

(*a*) if a business carried on by the dealer is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay the tax, interest or penalty due from the dealer under this Regulation, whether such tax, interest or penalty had been assessed before his death but has remained unpaid, or is assessed after his death;

(*b*) if the business carried on by the dealer is discontinued after his death, his legal representative shall be liable to pay out of the estate of the deceased, to the extent the estate is capable of meeting the charge, the tax, interest or penalty due from the dealer under this Regulation, whether such tax, interest or penalty had been assessed before his death, but has remained unpaid, or is assessed after his death,

and the provisions shall, so far as may be, apply to such legal representative or other person as if he were the dealer himself.

CHAPTER X

AUDIT, INVESTIGATION AND ENFORCEMENT

Audit, investigation and enforcement.

58. (*1*) The Commissioner may serve on any person in the prescribed manner a notice informing him that an audit of his business affairs shall be performed and where applicable, that an assessment already concluded under this Regulation may be reopened.

(*2*) A notice served under sub-section (*1*) may require the person on whom it is served, to appear on a date and place specified therein, which may be at his business premises or at a place specified in the notice, to either attend and produce or cause to be produced the books of account and all evidence on which the dealer relies in support of his returns (including tax invoices, if any), or to produce such evidence as is specified in the notice.

(*3*) The person on whom a notice is served under sub-section (*1*) shall provide all co-operation and reasonable assistance to the Commissioner as may be required to conduct the proceedings under this section at his business premises.

(*4*) The Commissioner shall, after considering the return, the evidence furnished with the returns, if any, the evidence acquired in the course of the audit, if any, or any information otherwise available to him, either—

(*a*) confirm the assessment under review; or

(*b*) serve a notice of the assessment or re-assessment of the amount of tax, interest and penalty if any pursuant to sections 32 and 33.

(*5*) Any assessment pursuant to an audit of the person's business affairs shall be without prejudice to prosecution for any offence under this Regulation.

(*6*) (*1*) If the Commissioner, having regard to,—

(*a*) the nature and complexity of the business of a dealer; or

(*b*) the interest of the revenue; or

(*c*) volume of accounts; or

(*d*) doubts about the correctness of the accounts; or

(*e*) multiplicity of transactions in the accounts; or

(*f*) specialised nature of business activity; or

(*g*) non-production of all records and accounts; or

(*h*) non-filing of audit report under section 49; or

(*i*) any other reason, is of the opinion that it is necessary so to do,

he may direct the dealer by a notice in writing to get his records including books of account, examined and audited by an accountant or a panel of accountants or any other professional

or panel of professionals nominated by the Commissioner in this behalf and to furnish a report of such examination and audit in the format that he may specify, duly signed and verified by such accountant or panel of accountants or professional or panel of professionals and setting forth such particulars as may be specified.

(*2*) The provision of sub-section (*1*) shall have effect notwithstanding that the accounts of the dealer have been audited under any other provision or any other law for the time being in force or otherwise.

(*3*) Every report under sub-section (*1*) shall be furnished by the dealer to the Commissioner within such period as may be specified by the Commissioner:

Provided that the Commissioner may, on an application made in this behalf by the dealer and for any good and sufficient reason, extend the said period by such further period or periods as he thinks fit:

Provided further that the aggregate of the period originally fixed and the period or periods so extended shall not, in any case, exceed one hundred eighty days from the date on which the direction under sub-section (*1*) is received by the dealer.

(*4*) The expenses of, and incidental to, the examination and audit of records under sub-section (*1*), (including the remuneration of the accountant or a panel of accountants or professional or panel of professionals) shall be determined and paid by the Commissioner and that determination shall be final.

Inspection of records.

59. (*1*) All records, books of account, registers and other documents, maintained by a dealer, transporter or operator of a warehouse shall, at all reasonable times, be open to inspection by the Commissioner.

(*2*) The Commissioner may, for the proper administration and subject to such conditions as may be prescribed, require—

(*a*) any dealer; or

(*b*) any other person, including a banking company, post office, a person who transports goods or holds goods in custody for delivery to, or on behalf of any dealer, who maintains or has in his possession any books of account, registers or documents relating to the business of a dealer, and, in the case of a person which is an organisation, any officer thereof,

to—

(*i*) produce before him such records, books of account, registers and other documents;

(*ii*) answer such questions; and

(*iii*) prepare and furnish such additional information; relating to his activities or to the activities of any other person as the Commissioner may deem necessary.

(*3*) The Commissioner may require a person referred to in sub-section (*2*), to—

(*a*) prepare and provide any documents; and

(*b*) verify the answer to any question; in the manner specified by him.

(*4*) The Commissioner may retain, remove, take copies or extracts, or cause copies or extracts to be made of the said records, books of account, registers and documents without fee by the person in whose custody the records, books of account, registers and documents are held.

Power to enter premises and seize records and goods.

60. (*1*) All goods kept at any business premises by a dealer, transporter or operator of a warehouse shall at all reasonable times be open to inspection by the Commissioner.

(*2*) Where the Commissioner, upon information in his possession or otherwise has reasonable grounds to believe that any person or dealer is attempting to avoid or evade tax

or is concealing his tax liability in any manner and for the purposes of administration, it is necessary so to do, the Commissioner may—

(*a*) enter and search any business premises or any other place or building;

(*b*) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (*a*) where the keys thereof are not readily available;

(*c*) seize and remove any records, books of account, registers, other documents or goods;

(*d*) place marks of identification on any records, books of account, registers and other documents or make or cause to be made extracts or copies thereof without charge;

(*e*) make a note or any inventory of any such money or goods found as a result of such search or place marks of identification on such goods; and

(*f*) seal the premises including the office, shop, godown, box, locker, safe, almirah or other receptacle.

(*3*) Where it is not feasible to remove any records, books of account, registers, other documents or goods, the Commissioner may serve on the owner and any person who is in immediate possession or control thereof, an order that he shall not remove or part with or otherwise deal with them except with the previous permission of the Commissioner.

(*4*) Where any premises have been sealed under clause (*f*) of sub-section (*2*), or an order made under sub-section (*3*), the Commissioner may, on an application made by the owner or the person in occupation or in charge of such shop, godown, box, locker, safe, almirah or other receptacle, permit the de-sealing or release thereof, as the case may be, on such terms and conditions including furnishing of security for such sum in such form and manners as may be prescribed.

(*5*) The Commissioner may requisition the services of any police officer or any public servant, or of both, to assist him for all or any of the purposes specified in sub-section (*2*).

(*6*) Save as otherwise provided in this section, every search or seizure made under this section shall as far as possible be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to searches or seizures made under that Code. 2 of 1974.

Power to stop, search and detain goods vehicles.

61. (*1*) The Commissioner may, at any check-post or barrier or at any other place, to enable proper administration of this Regulation, require the owner, driver or person in charge of a goods vehicle to stop the vehicle and keep it stationary so long as may be required to search the vehicle, examine the contents therein and inspect all records relating to the goods carried, which are in the possession of such owner, driver or person in charge.

(*2*) The owner, driver or person in charge of a goods vehicle shall carry with him such records as may be prescribed in respect of the goods carried in the goods vehicle and produce the same before any officer in charge of a check-post or barrier or any other officer or any agent as may be empowered by the Commissioner.

(*3*) The owner, driver or person in charge of a goods vehicle entering or leaving Andaman and Nicobar Islands shall also file a declaration containing such particulars in the prescribed form obtainable from the Commissioner and in such manner as may be prescribed, before the officer in charge of a check-post or barrier or before any other officer or agent empowered as aforesaid:

Provided that where the owner, driver or person in charge of a goods vehicle, after filing a declaration at the time of entering Andaman and Nicobar Islands that the goods are meant to be carried to a place outside Andaman and Nicobar Islands, fails, without reasonable cause, to carry such goods outside Andaman and Nicobar Islands within the prescribed period, he shall, in addition to the payment of tax, if any, be liable to a penalty not exceeding two and a half time the tax that would have been payable had the goods been sold inside Andaman and Nicobar Islands or one thousand rupees, whichever is more.

(*4*) The owner, driver or person in charge of the goods vehicle shall, if required, inform the Commissioner of—

(*a*) his name and address;

(*b*) the name and address of the owner of the vehicle;

(*c*) the name and address of the consignor of the goods;

(*d*) the name and address of the consignee of the goods; and

(*e*) the name and address of the transporter.

(*5*) If, on an examination of the contents of a goods vehicle or the inspection of documents relating to the goods carried, the Commissioner has reason to believe that the owner or driver or person in charge of such goods vehicle is not carrying the documents as required by sub-section (*2*) or is not carrying proper and genuine documents or is attempting to evade payment of tax due under this Regulation, he may, for reasons to be recorded in writing, do any one or more of the following, namely:—

(*a*) refuse to allow the goods or the goods vehicle to enter or leave Andaman and Nicobar Islands;

(*b*) seize the goods and any documents relating to the goods; and

(*c*) seize the goods vehicle and any documents relating to the goods vehicle.

(*6*) Where the owner, driver or the person in charge of the goods vehicle—

(*a*) requests time to adduce evidence of payment of tax in respect of the goods to be detained or impounded; and

(*b*) furnishes security to the satisfaction of the Commissioner in such form, manner and for such amount as may be prescribed,

the goods vehicle, the goods and the documents so seized may be released:

Provided that where the owner or his agent, driver or person in charge of the goods vehicle exercises the option of paying by way of penalty, a sum equal to three and a half times the tax, which in the opinion of the Commissioner, would be leviable on such goods, if such goods were sold in Andaman and Nicobar Islands, the Commissioner instead of detaining or impounding the goods or the goods vehicle or the documents relating to the goods and goods vehicle shall release the same.

(*7*) The Commissioner may permit the owner, driver or person in charge of goods vehicle to remove any goods or goods vehicle seized under sub-section (*4*) subject to an undertaking—

(*a*) that the goods and goods vehicle shall be kept in the office, godown or other place within Andaman and Nicobar Islands, belonging to the owner of the goods vehicle and in the custody of such owner; and

(*b*) that the goods shall not be delivered to the consignor, consignee or any other person without the approval in writing of the Commissioner, and for this purpose the person in charge of the goods vehicle shall furnish an authorization from the owner of the goods vehicle authorizing him to give such undertaking on his behalf.

(*8*) Save as otherwise provided in this section, every search or seizure made under this section shall as far as possible be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to searches or seizures made under that Code. 2 of 1974.

(*9*) Nothing contained in this section shall apply to the rolling stock as defined in the Railway Act, 1989. 24 of 1989.

Custody and release of records.

62. (*1*) Where the Commissioner seizes any books of account or other documents, he shall give the dealer or the person present on his behalf, as the case may be, a receipt for the same and obtain acknowledgement of the receipt so given to him:

Provided that if the dealer or person from whose custody the books of account or other documents are seized refuses to give an acknowledgement, the Commissioner may leave the receipt at the premises and record this fact.

(*2*) The Commissioner shall keep in his custody the books of account, registers, other documents seized under section 60 for a period not exceeding one year, and thereafter shall return the same to the dealer or person from whose custody or power they were seized:

Provided that the Commissioner may, before returning the books of account, registers and other documents, require the dealer or the person, as the case may be, to give a written undertaking that the books of account, registers and other documents shall be presented whenever required by the Commissioner for any proceedings under this Regulation:

Provided further that the Commissioner shall, when requested, allow the person whose books of account, registers and documents have been seized, reasonable access to the books of account, registers and documents for the purpose of inspection and shall allow the person the opportunity to make copies thereof at the person's own expense:

Provided also that the period of custody of the books of account, registers and other documents seized under section 60 may be extended beyond one year if any proceedings under this Regulation are pending or for reasons to be recorded by the Commissioner in writing.

Custody, return and disposal of goods, goods vehicle and security.

63. (*1*) Where the Commissioner seizes any goods or goods vehicle, he shall give the dealer, person in charge of the goods vehicle or a person present on his behalf, as the case may be, a receipt for the same and obtain acknowledgement of the receipt so given to him:

Provided that if the person from whose custody the goods or goods vehicle are seized refuses to give an acknowledgement, the Commissioner may leave the receipt in his presence and record this fact.

(*2*) The Commissioner—

(*a*) shall keep any goods or goods vehicle seized under section 61 in his custody;

(*b*) may retain them for such time as he considers reasonable; and

(*c*) subject to the provisions of sub-section (*3*), shall return the goods or goods vehicle to the dealer or other person from whose custody or power they were seized.

(*3*) Where the Commissioner—

(*a*) has seized any goods;

(*b*) has seized a goods vehicle; or

(*c*) holds any goods as security for the performance of an obligation under this Regulation,

the Commissioner may, not sooner than one month after the service of notice on—

(*i*) the person from whom the goods were seized;

(*ii*) the person from whom the goods vehicle was seized;

(*iii*) the person for whom the security was given; and

(*iv*) any person against whom the security is to be enforced,

of his intention to sell the goods, direct the auction of such goods or goods vehicle to meet any arrears of tax, interest or penalty owed under this Regulation.

(*4*) An auction of goods or a goods vehicle shall be carried out in the manner prescribed for the sale of property held by the Commissioner.

Detention of goods pending disclosure.

64. (*1*) If any person on being required by the Commissioner, fails to give any information in respect of any goods in his possession or fails to permit the inspection thereof, the Commissioner may seize any goods in his custody or possession in respect of which the default is committed.

(*2*) The seizure shall remain in force until it is revoked or the person concerned furnishes the information required or makes proper arrangements for the inspection of the goods, whichever occurs first.

Obligation to provide reasonable assistance.

65. Every person shall provide co-operation and reasonable assistance to the Commissioner as may be required to conduct the Commissioner's activities under the Regulation.

CHAPTER XI

VALUE ADDED TAX AUTHORITIES AND APPELLATE TRIBUNAL

Value Added Tax Authorities.

66. (*1*) For the purposes of carrying out this Regulation, the Government shall appoint a person to be the Commissioner of Value Added Tax.

(*2*) The Government may, to assist the Commissioner in the administration of this Regulation, appoint as many Special Commissioners of Value Added Tax, Value Added Tax Officers and such other persons with such designations as the Government thinks necessary (herein this Chapter referred to as "Value Added Tax Authority").

(*3*) The Commissioner and the Value Added Tax Authorities shall exercise such powers as may be conferred, and perform such duties as may be required, by or under this Regulation.

(*4*) The powers exercised by the Value Added Tax Authorities for the making of assessments of tax, the computation and imposition of penalties, the computation of interest due or owed, the computation of the entitlement and the amount of any refund, the determination of specific questions under section 84, the making of general rulings under section 85, and the conduct of audit or investigations shall, for the purposes of this Regulation, be the administrative functions.

Powers and responsibilities of the Commissioner.

67. (*1*) The Commissioner shall have responsibility for the due and proper administration and shall have jurisdiction over the whole of Andaman and Nicobar Islands.

(*2*) Subject to the provisions of sub-section (*3*) the Commissioner may, from time to time, issue such orders, instructions and directions to any Value Added Tax Authorities as he thinks fit for the due and proper administration and all such persons engaged in the administration shall observe and follow such orders, instructions and directions of the Commissioner.

(*3*) No orders, instructions or directions may be issued by the Commissioner to a person exercising the power to determine—

(*a*) a particular objection made or to be made under section 74; or

(*b*) a particular question made under section 84,

so as to require the person to determine the objection or answer the question of a particular person in a particular manner.

(*4*) Nothing in sub-section (*3*) shall prevent the Commissioner from issuing general orders, instructions and directions to any person who determines objections made under section 74 or answers questions made under section 84 about the manner of determining classes of objections or answering classes of questions.

Delegation of Commissioner's powers.

68. (*1*) Subject to such restrictions and conditions as may be prescribed, the Commissioner may delegate any of his powers under this Regulation to any Value Added Tax Authorities.

(*2*) Where the Commissioner delegates his powers under Chapter X, the delegate shall carry and produce on demand evidence in the prescribed form of the delegation of these powers when exercising the powers.

(*3*) Where the Commissioner has delegated a power to a Value Added Tax Authority, the Commissioner may supervise, review and rectify any decision made or action taken by that Authority.

(*4*) Notwithstanding any law or doctrine to the contrary, the power delegated by the Commissioner to a person to determine an objection under section 74 may be exercised by that person, even though the person determining the objection is equal in rank to the person whose decision is under objection.

Change of an incumbent of an office.

69. Whenever in respect of any proceeding under this Regulation the Commissioner or any Value Added Tax Authority is succeeded by another person—

(*a*) no delegation of power made by the former incumbent shall be revoked by virtue of the succession; and

(*b*) the person so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor.

Power of Commissioner to make notifications.

70. (*1*) The Commissioner may notify and publish any forms which may be necessary for the reporting of information to the Value Added Tax Authorities.

(*2*) Where the Commissioner has notified a form for a particular purpose, all persons shall be required to report the information using the form, in such manner as may be notified by him.

(*3*) Where in his opinion it is necessary or convenient to do so, the Commissioner may issue notifications for carrying out the purposes:

Provided that any notification shall not be inconsistent with this Regulation or any rules or regulations made pursuant to it.

(*4*) In particular and without prejudice to the generality of the foregoing power, a notification issued by the Commissioner may stipulate all or any of the matters which in the opinion of the Commissioner are necessary or convenient for the proper administration.

(*5*) Every notification issued by the Commissioner under this Regulation shall be published in the Official Gazette, and shall not have any effect prior to such publication.

Persons to be public servants.

71. The Commissioner, Value Added Tax Authorities and all members of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Immunity from civil suit.

72. No suit or proceeding shall be brought in any civil court against the Government, the Commissioner, any Value Added Tax Authorities, or member of the Appellate Tribunal for anything done or intended to be done in good faith under this Regulation or the rules made thereunder.

Appellate Tribunal.

73. (*1*) The Government shall, as soon as may be after the commencement of this Regulation, constitute an Appellate Tribunal consisting of one or more members, as it thinks fit, to exercise the powers and discharge the functions conferred on the Appellate Tribunal by or under this Regulation or may request the Central Government to designate any Tribunal of the nearby State to function as Appellate Tribunal for the purpose:

Provided that where the Appellate Tribunal consists of one member, that member shall be a person who has held a civil judicial post for at least five years or who has been a member of the Indian Legal Service (not below Grade III) for at least three years or who has been in practice as an advocate for at least ten years, and where the Appellate Tribunal consists of more than one member, one such member shall be a person qualified as aforesaid.

(*2*) Where the number of members of the Appellate Tribunal is more than one, the Government shall appoint one of those members to be the Chairperson of the Appellate Tribunal.

(*3*) Subject to the provisions of sub-section (*1*), the qualifications and other conditions of service of the member or members constituting the Appellate Tribunal and the period for which such member or members shall hold office, shall be such as may be determined by the Government.

(*4*) Any vacancy in the Appellate Tribunal shall be filled up by the Government as soon as practicable.

(*5*) Where the number of members of the Appellate Tribunal is more than one and if the members differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, the decision of the Chairperson of the Appellate Tribunal thereon shall be final.

(*6*) Subject to the previous sanction of the Government, the Appellate Tribunal shall, for the purpose of regulating its procedure and disposal of its business, make Regulations consistent with the provisions and the rules made thereunder.

(*7*) The regulations made under sub-section (*6*) shall be published in the Official Gazette.

(*8*) The Appellate Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the Commissioner under section 75 and any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code and the Appellate Tribunal shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.

2 of 1974.

(*9*) Notwithstanding anything to the contrary contained in this section, the Government, may, by a notification in the Official Gazette, constitute benches comprising of one or more members, subject to such conditions and regulations as may be laid down in the notification.

CHAPTER XII

OBJECTIONS, APPEALS, DISPUTES AND QUESTIONS

Objections.

74. (*1*) Any person who is dissatisfied with—

(*a*) an assessment made under this Regulation (including an assessment under section 33); or

(*b*) any other order or decision made under this Regulation,

may make an objection against such assessment, or order or decision, as the case may be, to the Commissioner:

Provided that no objection may be made against a non-appealable order as defined in section 79:

Provided further that no objection against an assessment shall be entertained unless the amount of tax, interest or penalty assessed that is not in dispute has been paid failing which the objection shall be deemed to have not been filed:

Provided also that the Commissioner may, after giving to the dealer an opportunity of being heard, may direct the dealer to deposit an amount deemed reasonable, out of the amount under dispute, before such objection is entertained:

Provided also that only one objection may be made by the person against any assessment, decision or order:

Provided also that in the case of an objection to an amended assessment, order, or decision, an objection may be made only to the portion amended:

Provided also that no objection shall be made to the Commissioner against an order made under section 84 or section 85 if the Commissioner has not delegated his power under the said sections to other Value Added Tax Authorities.

(*2*) A person who is aggrieved by the failure of the Commissioner to reach a decision or issue any assessment or order, or undertake any other procedure under this Regulation, within six months after a request in writing was served by the person, may make an objection against such failure.

(*3*) An objection shall be in writing in the prescribed form and shall state fully and in detail the grounds upon which the objection is made.

(*4*) The objection shall be made—

(*a*) in the case of an objection made under sub-section (*1*), within two months of the date of service of the assessment, or order or decision, as the case may be; or

(*b*) in the case of an objection made under sub-section (*2*), not earlier than six months and not later than eight months after the written request was served by the person:

Provided that where the Commissioner is satisfied that the person was prevented for sufficient cause from lodging the objection within the time specified, he may accept an objection within a further period of two months.

(*5*) The Commissioner shall conduct its proceedings by an examination of the assessment, or order or decision, as the case may be, the objection and any other document or information as may be relevant:

Provided that where the person aggrieved, requests a hearing in person, the person shall be afforded an opportunity to be heard in person.

(*6*) Where a person has requested a hearing under sub-section (*5*) and the person fails to attend the hearing at the time and place stipulated, the Commissioner shall proceed and determine the objection in the absence of the person.

(*7*) Within three months after the receipt of the objection, the Commissioner shall either—

(*a*) accept the objection in whole or in part and take appropriate action to give effect to the acceptance (including the remission of any penalty assessed either in whole or in part); or

(*b*) refuse the objection or the remainder of the objection, as the case may be; and in either case, serve on the person objecting, a notice in writing of the decision and the reasons for it, including a statement of the evidence on which it is based:

Provided that where the Commissioner within three months of the making of the objection notifies the person in writing, he may continue to consider the objection for a further period of two months:

Provided further that the person may, in writing, request the Commissioner to delay considering the objection for a period of three months for the proper preparation of its position, in which case the period of the adjournment shall not be counted towards the period by which the Commissioner shall reach his decision.

(*8*) Where the Commissioner has not notified the person of his decision within the time specified under sub-section (*7*), the person may serve a written notice requiring him to make a decision within fifteen days.

(*9*) If the decision has not been made by the end of the period of fifteen days after being given the notice referred to in sub-section (*8*), then, at the end of that period, the Commissioner shall be deemed to have allowed the objection.

(*10*) (*a*) In case of revision of any order under this section or any decision in objection is passed under this Regulation, rules or notifications made thereunder, by any officer or

person subordinate to him, the Commissioner may, of his own motion or upon information received by him, call for the record of such order and examine whether—

(*i*) any turnover of sales has not been brought to tax or has been brought to tax at lower rate, or has been incorrectly classified, or any claim is incorrectly granted or that the liability to tax is understated; or

(*ii*) any case, the order is erroneous, insofar as it is prejudicial to the interest of revenue, and after examination, the Commissioner may pass an order to the best of his judgment, where necessary.

(*b*) (*i*) For the purpose of the examination and passing of the order, the Commissioner may require, by service of notice, the dealer to produce or cause to be produced before him such books of account and other documents or evidence as he thinks necessary for the purposes aforesaid.

(*ii*) Notwithstanding anything to the contrary contained in section 34, no order under this section shall be passed after the expiry of four years from the end of the year in which the order passed by the subordinate officer has been served on the dealer.

(*iii*) Notwithstanding anything to the contrary contained in section 34, where in respect of any order or part of the said order passed by the subordinate officer, an order has been passed by any authority hearing the objection or any appellate authority including the Tribunal or such order is pending for decision in objection or in appeal, or an objection or an appeal is filed, then, whether or not the issues involved in the examination have been decided or raised in the objection or the appeal, the Commissioner may, within five years of the end of the year in which the said order passed by the subordinate officer has been served on the dealer, make a report to the said objection hearing authority or the appellate authority including the Tribunal regarding his examination or the report or the information received by him and the said appellate authority including the Tribunal shall thereupon, after giving the dealer a reasonable opportunity of being heard, pass an order to the best of its judgment, where necessary.

(*c*) If the Commissioner has initiated any proceeding before an appropriate forum against an issue which is decided against the revenue by an order of the Tribunal, then the Commissioner may, in respect of any order, other than the order which is the subject-matter of the order of the Tribunal, call for the record, conduct an examination as aforesaid, record his findings, call for the said books of account and other evidence and pass an order as provided for under this section as if the issue was not so decided against the revenue, but shall stay the recovery of the dues including the interest or penalty, insofar as they relate to such issue until the decision by the appropriate forum and after such decision, may modify the order of revision, if necessary.

(*d*) No proceedings under this section shall be entertained on any application made by a dealer or a person.

(*e*) Notwithstanding anything contained in any judgment, decree or order of any court, the provisions of this Regulation, other than sections 99 to 101, shall be deemed to have come into force with effect from the 1st day of July, 2017.

(*11*) (*a*) Notwithstanding anything to the contrary contained in section 34, the Commissioner may, at any time within four years from the end of the year in which any order passed by him has been served, on his own motion, rectify any mistake apparent on record and shall within the said period or thereafter rectify any such mistake which has been brought to his notice within the said period, by any person affected by such order.

(*b*) The provisions of sub-section (*1*) shall apply to the rectification of a mistake by the appellate authority or an objection hearing authority as they apply to the rectification of mistake by the Commissioner:

Provided that where any matter has been considered and decided in any proceedings by way of objection or appeal or review in relation to any order or part of an order, the authority passing the order on objection, appeal or review, may, notwithstanding anything contained in this Regulation, rectify the order or part of the order on any matter other than the matter which has been so considered and decided.

(*c*) Where any such rectification has the effect of reducing the amount of the tax or penalty or interest, the Commissioner shall refund any amount due to such person in accordance with the provisions.

(*d*) Where any such rectification has the effect of enhancing the amount of the tax or penalty or interest or reducing the amount of refund, the Commissioner shall recover the amount due from such person in accordance with the provisions.

(*e*) Save as provided in the foregoing sub-sections, and subject to such rules as may be prescribed, any assessment or re-assessment made or order passed under this Regulation or the rules made thereunder by any person appointed under section 66 may be reviewed by such person *suo motu* or upon an application made in that behalf.

Power of Commissioner and other authorities to take evidence on oath, etc.

75. (*1*) The Commissioner or any person determining objections under section 74, for the purposes of this Regulation, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 when trying a suit, in respect of the following matters, namely:— 5 of 1908.

(*a*) enforcing the attendance of any person and examining him on oath or affirmation;

(*b*) compelling the production of accounts and documents; and

(*c*) issuing commissions for the examination of witnesses and any proceeding under this Regulation before the Commissioner or person determining objections under section 74 shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code. 45 of 1860.

(*2*) Subject to any rules made in this behalf, the Commissioner or any person determining objections under section 74 may impound and retain in his custody, any books of account or other documents produced before him in any proceedings under this Regulation until such proceedings are concluded:

Provided that the Commissioner or the person determining an objection under section 74 shall not impound any books of account or other documents without recording in writing his reasons for so doing.

Appeals to Appellate Tribunal.

76. (*1*) Any person aggrieved by a decision made by the Commissioner under sections 74, 84 and 85 may appeal to the Appellate Tribunal against such decision:

Provided that no appeal may be made against a non-appealable order under section 79.

(*2*) Subject to the provisions of section 77, no appeal shall be entertained unless it is made within two months from the date of service of the decision appealed against.

(*3*) Every appeal made under this section shall be in form, verified in such manner and shall be accompanied by such fee as may be prescribed.

(*4*) No appeal against an assessment shall be entertained by the Appellate Tribunal unless the appeal is accompanied by satisfactory proof of the payment of the amount in dispute and any other amount assessed as due from the person:

Provided that the Appellate Tribunal may, if it thinks fit, for reasons to be recorded in writing, entertain an appeal against such order without payment of some or all of the amount in dispute, on the appellant furnishing in the prescribed manner security for such amount as it may direct:

Provided further that no appeal shall be entertained by the Appellate Tribunal unless it is satisfied that such amount as the appellant admits to be due from him has been paid.

(*5*) In proceedings before the Appellate Tribunal—

(*a*) the person aggrieved shall be limited to disputing only those matters stated in the objection;

(*b*) the person aggrieved shall be limited to arguing only those grounds stated in the objection; and

(*c*) the person aggrieved may be permitted to adduce evidence not presented to the Commissioner for good and sufficient reasons.

(*6*) The Appellate Tribunal shall—

(*a*) in the case of an assessment, confirm, reduce, or annul the assessment (including any penalty and interest imposed);

(*b*) in the case of any other decision of the Commissioner, affirm or reject the decision; or

(*c*) pass such other order for the determination of the issue as it thinks fit:

Provided that the Appellate Tribunal shall give reasons in writing for its decision which shall include its findings on material questions of fact and the evidence or other material on which those findings were based.

(*7*) The Appellate Tribunal shall use its best endeavours to make a final resolution of the matter before it and for this purpose may make a decision in substitution for the order in dispute, including the exercise or re-exercise of any discretion or power vested in the Commissioner.

(*8*) The Appellate Tribunal shall not set aside an assessment and remit the matter to the Commissioner for a further assessment, unless it has first—

(*a*) advised the aggrieved person of the proposed order;

(*b*) offered the person the opportunity to adduce such further evidence before it as might assist the Appellate Tribunal to reach a final determination.

(*9*) Where the Appellate Tribunal sets aside an assessment and remits the matter to the Commissioner for a further assessment, the Appellate Tribunal shall at the same time order the Commissioner to refund to the person some or all of the amount in dispute:

Provided that where no order is made, it shall be presumed that the Appellate Tribunal has ordered the refund of the amount in dispute.

(*10*) Where a person has failed to attend the hearing at the time and place stipulated, the Appellate Tribunal may adjourn the proceedings, strike out the appeal or proceed to make an order determining the objection in the absence of the person.

(*11*) Save as provided in section 81 and sub-section (*12*), an order passed by the Appellate Tribunal on an appeal shall be final.

(*12*) The Appellate Tribunal may rectify any mistake or error apparent from the record of its proceedings.

(*13*) Any order passed by the Appellate Tribunal may be reviewed *suo motu* or upon an application made in that behalf:

Provided that before any order which is likely to affect any person adversely is passed, such person shall be given a reasonable opportunity of being heard.

Extension of period of limitation in certain cases.

77. (*1*) The Appellate Tribunal may admit an appeal under section 76 after the period of limitation laid down in that section, if the appellant satisfies the Appellate Tribunal that he had sufficient cause for not preferring the appeal within such period.

(*2*) In computing the period laid down under sections 76 and 81, the provisions of sections 4 and 12 of the Limitation Act, 1963, shall, so far as may be, apply. 36 of 1963.

(*3*) In computing the period of limitation prescribed by or under any provision, or the rules made thereunder, other than section 76 or 81, any period during which any proceeding is stayed by an order or injunction of any court shall be excluded.

Burden of proof.

78. The burden of proving any matter in issue in proceedings under section 74, or before the Appellate Tribunal which relates to the liability to pay tax or any other amount under this Regulation shall lie on the person alleged to be liable to pay the amount.

Bar on appeal or objection against certain orders.

79. (*1*) No objection or appeal shall lie against—

(*a*) a decision of the Commissioner to make an assessment of tax or penalty;

(*b*) a notice requiring a person to furnish a return;

(*c*) a notice issued under section 58 or section 59;

(*d*) a decision of the Commissioner to notify any matter;

(*e*) a notice asking a dealer to show cause why he should not be prosecuted for an offence under this Regulation;

(*f*) a decision relating to the seizure or retention of books of account, registers and other documents;

(*g*) a decision sanctioning a prosecution under this Regulation;

(*h*) an interim decision made in the course of any proceedings;

(*i*) a decision of the Commissioner touching on the internal administration of the Value Added Tax Authorities;

(*j*) an assessment issued by the Commissioner to give effect to an order of the Appellate Tribunal or a court; or

(*k*) a notice served on the person under sub-section (*10*) of section 84 referred to as "non-appealable orders".

(*2*) Save as provided in clause (*j*) of sub-section (*1*), nothing contained in sub-section (*1*) shall prevent the person from objecting to the amount or the obligation to pay any amount assessed by the Commissioner under section 74.

Assessment proceedings, etc., not to be invalid on certain grounds.

80. (*1*) No assessment, notice, summons or other proceedings made or issued or taken or purported to have been made or issued or taken in pursuance of any of the provisions or under the earlier law shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such assessment, notice, summons or other proceedings, if such assessment, notice, summons or other proceedings are in substance and effect in conformity with or according to the intent and purposes or any earlier law.

(*2*) The service of any notice, order or communication shall not be called in question if the said notice, order or communication, as the case may be, has already been acted upon by the dealer or person to whom it is issued or which service has not been called in question at or in the earliest proceedings commenced, continued or finalised pursuant to such notice, order or communication.

(*3*) No assessment made under this Regulation shall be invalid merely on the ground that the action could also have been taken by any other authority under any other provisions.

Appeal to High Court.

81. (*1*) An appeal shall lie to the High Court from every order passed by the Appellate Tribunal in appeal under this Regulation, if the High Court is satisfied that the case involves a substantial question of law.

(*2*) The Commissioner or the other party aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be—

(*a*) filed within sixty days from the date on which the order appealed against is received by the Commissioner or served upon the other party:

Provided that the High Court may entertain an appeal after the expiry of the period of sixty days, if it is satisfied that there was sufficient cause for not filing it within that period:

Provided further that the above proviso shall be deemed to have come into force with effect from the 1st day of April, 2005;

(*b*) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(*3*) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(*4*) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(*5*) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(*6*) The High Court may determine any issue which—

(*a*) has not been determined by the Appellate Tribunal;

(*b*) has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law as is referred to in sub-section (*1*).

(*7*) Where an appeal has been filed before the High Court, it shall be heard by a bench of not less than two judges of the High Court, and shall be decided in accordance with the opinion of such judges or of the majority, if any, of such judges.

(*8*) Where there is no such majority, the judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only by one or more of the other judges of the High Court and such point shall be decided according to the opinion of the majority of the judges who have heard the case including those who first heard it.

(*9*) Save as otherwise provided in this Regulation, the provisions of the Code of Civil Procedure, 1908, relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.

5 of 1908.

Appearance before any authority in proceedings.

82. (*1*) Any person, who is entitled or required to attend before any authority in connection with any proceedings under this Regulation, may attend—

(*a*) by a person authorised by him in writing in this behalf, being a relative or a person regularly employed by him; or

(*b*) by a legal practitioner or chartered accountant or cost accountant or company secretary who is not disqualified by or under sub-section (*2*); or

(*c*) by a Value Added Tax practitioner who possesses the prescribed qualifications and is entered in the list, which the Commissioner shall maintain in that behalf, and who is not disqualified by or under sub-section (*2*).

(*2*) The Commissioner may, for reasons to be recorded in writing, disqualify for a period from appearing before any such authority, any legal practitioner, chartered accountant, cost accountant, company secretary or Value Added Tax practitioner—

(*a*) who has been dismissed from government service; or

(*b*) who, being a legal practitioner or chartered accountant, or cost accountant or company secretary is found guilty of misconduct in connection with any proceedings under this Regulation by an authority empowered to take disciplinary action against the members of the profession to which he belongs; or

(*c*) who, being a Value Added Tax practitioner, is found guilty of such misconduct by the Commissioner.

(*3*) Any person who is disqualified under this section may, within one month of the date of disqualification, appeal to the Government to have the disqualification cancelled.

(*4*) The decision of the Commissioner shall not take effect until one month of the making thereof or when an appeal is preferred, until the appeal is decided.

(*5*) The Commissioner may, at any time, *suo motu* or on an application made to him in this behalf, revoke any decision made against any person under sub-section (*2*) and thereupon such person shall cease to be disqualified.

Bar of suits in civil courts.

83. No suit or proceeding shall be brought in any civil court to set aside or modify any assessment made or any order passed under this Regulation or the rules made thereunder.

Determination of specific questions.

84. (*1*) If any determinable question arises, otherwise than in proceedings before a court, a person may apply in the prescribed manner to the Commissioner for the determination of that question.

(*2*) Subject to sub-section (*3*), an application for the determination of a determinable question may be made in respect of a proposed transaction, a transaction that is being undertaken, or a transaction has been concluded.

(*3*) An application for the determination of a determinable question may not be made after—

(*a*) the Commissioner has commenced the audit of the person pursuant to section 58; or

(*b*) the Commissioner has issued an assessment for the tax period in which the transaction that is the subject of the determinable question occurred.

(*4*) For the purposes of this section, the following shall be determinable questions—

(*a*) whether any person, society, club or association or any firm or any branch or department of any firm is or would be a dealer;

(*b*) whether any dealer is or would be required to be registered under this Regulation;

(*c*) the amount of the taxable quantum of a dealer for a period;

(*d*) whether a transaction is or would be a sale, or requires an adjustment to be made under section 8 arising out of a sale;

(*e*) whether a transaction is or would be in the nature of works contract, or transfer of right to use any goods;

(*f*) whether a sale is not liable to tax under section 7;

(*g*) whether a sale is exempt from tax under section 6;

(*h*) the sale price of a transaction;

(*i*) the proportion of the turnover or turnover of purchases of a dealer which arises in a tax period, and the time at which an adjustment to tax or tax credit arises;

(*j*) whether any transaction is or would be the import of goods;

(*k*) the value of any goods imported into Andaman and Nicobar Islands;

(*l*) the rate of tax that is payable on a sale or import of goods and the classification of the goods under the Schedules;

(*m*) whether a transaction is the purchase of goods, or requires an adjustment to be made under section 10 arising out of a purchase;

(*n*) the amount of any tax credit to which the dealer is entitled in respect of a purchase or import of goods;

(*o*) the amount of any tax credit in respect of any used goods purchased by a dealer;

(*p*) the location of any sale or purchase;

(*q*) the application of a composition scheme in the circumstances of a dealer; or

(*r*) the tax period of a dealer.

(*5*) The Commissioner shall make the determination within such period as may be prescribed.

(*6*) Where—

(*a*) the Commissioner fails to make a determination under this section within the time prescribed under sub-section (*5*);

(*b*) the person thereafter implements the transaction which is the subject of the application and in the manner described in the application; and

(*c*) the person has, in the application for the determination of the determinable question, indicated the answer to the determinable question which the person believes to be correct (in this section called the "proposed determination"),

the Commissioner shall be deemed for the purposes to have made and issued to the person on the day after the expiry of the prescribed period, a determination of the determinable question in the terms of the proposed determination.

(*7*) The Commissioner may—

(*a*) direct that the determination shall not affect the liability of any person under this Regulation with respect to any transaction effected prior to the determination;

(*b*) limit the period for which the determination will apply;

(*c*) limit the transactions to which the determination will apply; and

(*d*) impose such other limitations or restrictions on the determination as seem appropriate.

(*8*) If any such question arises from any order already passed under this Regulation or under the Port Blair Municipal Octroi Tax Bye-Laws as then in force in Andaman and Nicobar Islands, no such question shall be entertained for determination under this section but such question may be raised in an objection or appeal against such order.

(*9*) Where—

(*a*) the Commissioner has issued to a person a determination in respect of a particular transaction; and

(*b*) the person implements the transaction based on the determination issued to him under this section and in the manner described in the application,

no assessment may be raised by the Commissioner against that person which is inconsistent with the determination and no penalty may be imposed on the person if the determination is later held incorrect.

(*10*) The Commissioner may, by notice served on the person, withdraw or qualify a determination issued under this section but such withdrawal or qualification shall not affect the entitlement of any person to rely on the determination with respect to any transaction or action which he has commenced or which he has completed prior to the withdrawal or qualification.

Ruling on general questions.

85. (*1*) The Commissioner may, by notification in the Official Gazette, publish his ruling on the answer to any question involving the interpretation or application to a class of persons or class of transactions.

(*2*) A ruling issued by the Commissioner under this section may be issued subject to such restrictions and conditions as the Commissioner may deem fit.

(*3*) The ruling shall be treated as coming into effect on the date stated in the ruling (which may be a date prior to the publication of the ruling) or, if no date is stated in the ruling, on the date of publication of the Official Gazette.

(*4*) Where—

(*a*) the Commissioner has published a ruling in respect of a class of persons or transactions;

(*b*) a person implements a transaction or undertakes any action based on the ruling;

(*c*) the ruling has, at the time of implementing the transaction or undertaking the action, not been withdrawn by the Commissioner; and

(*d*) according to the terms of the ruling, the ruling purports to apply to the transaction or action undertaken by the person,

no assessment which is inconsistent with the ruling, may be raised by the Commissioner against that person and no penalty may be imposed on the person if the ruling is later held incorrect.

(*5*) The Commissioner may, by notification published in the Official Gazette, withdraw or qualify a ruling already issued under this section but such withdrawal or qualification shall not affect the entitlement of any person to rely on the ruling with respect to any transaction or action commenced or completed by him prior to such withdrawal or qualification.

CHAPTER XIII

PENALTIES AND OFFENCES

Interpretation.

86. (*1*) In this Chapter "tax deficiency" means the difference between the tax properly payable by the person in accordance with the provisions of this Regulation and the amount of tax paid by the person in respect of a calendar month.

(*2*) Where two or more penalties arise under this Regulation in respect of the same person, such person shall be liable to pay only the higher penalty.

Penalty for non-registration.

87. Where a person who is required to be registered under this Regulation has failed to apply for registration within one month from the day on which the requirement arose,

such person shall be liable to pay, by way of penalty, an amount equal to five hundred rupees per day from the day immediately following the expiry of the said period until such person makes an application for registration in such form, containing such particulars and information and accompanied by such fee, security and other documents as may be prescribed:

Provided that the amount of penalty payable under this sub-section shall not exceed an amount of fifty thousand rupees.

Penalty for contravention of section 21.

88. If, a registered dealer fails to comply with the provisions of sub-section (*1*) of section 21, he shall be liable to pay, by way of penalty, a sum of two hundred and fifty rupees per day of default subject to a maximum of five thousand rupees.

Penalty for contravention of section 22.

89. If a registered dealer—

(*a*) fails to comply with the provisions of sub-section (*2*) of section 22; or

(*b*) fails to surrender his certificate of registration as provided in sub-section (*7*) of section 22,

the registered dealer shall be liable to pay, by way of penalty, a sum equal to five hundred rupees for every day of default subject to a maximum of fifteen thousand rupees.

Penalty for false representation.

90. If any person falsely represents that he is registered as a dealer under this Regulation, he shall be liable to pay a penalty equal to the amount of tax wrongly collected or fifty thousand rupees, whichever is higher.

Penalty for non-compliance of certain conditions.

91. Where a person—

(*a*) has applied for registration under sub-section (*4*) of section 18;

(*b*) has been registered; and either—

(*i*) has failed to undertake activities which would make the person a dealer within the period specified in his application; or

(*ii*) has failed to comply with any of the restrictions or conditions subject to which such registration was granted,

such person shall be liable to pay a penalty of five thousand rupees.

Penalty for failure to furnish return.

92. If a person required to furnish a return under Chapter V—

(*a*) fails to furnish any return by the due date; or

(*b*) fails to furnish with a return any other document that is required to be furnished with the return; or

(*c*) being required to revise a return already furnished, fails to furnish the revised return by the due date; or

(*d*) fails to comply with a requirement in a notification issued under section 70,

such person shall be liable to pay, by way of penalty, a sum of two hundred and fifty rupees per day from the day immediately following the due date until the failure is rectified:

Provided that the total amount of penalty payable under this sub-section shall not exceed twenty-five thousand rupees.

Penalty for filing false return.

93. Any person who—

(*a*) furnishes a return under this Regulation which is false, misleading or deceptive in a material particular; or

(*b*) omits from a return furnished under this Regulation any matter or thing without which the return is false, misleading or deceptive in a material particular,

shall be liable to pay, by way of penalty, a sum of five thousand rupees or the amount of the tax deficiency, whichever is higher.

Other penalties.

94. (*1*) Any dealer who—

(*a*) has claimed tax credit under section 14 to which he is not entitled; or

(*b*) has claimed a greater tax credit under section 14 than is allowed,

shall be liable to pay, by way of penalty, an amount equal to the amount of tax credit so claimed or five thousand rupees, whichever is higher.

(*2*) Where a tax deficiency arises in relation to a person, the person shall be liable to pay, by way of penalty, a sum equal to one per cent. of the tax deficiency per week or a sum equal to rupees fifty per week, whichever is higher, for the period of default.

(*3*) Where a person is required under this Regulation to—

(*a*) prepare records or accounts; or

(*b*) prepare records or accounts in a prescribed manner; or

(*c*) retain prescribed or notified records or accounts;

and such persons—

(*i*) fails to prepare the prescribed or notified records and accounts; or

(*ii*) fails to prepare prescribed or notified records and accounts in the prescribed manner; or

(*iii*) fails to retain the prescribed or notified records and accounts for the prescribed period; or

(*iv*) fails to retain or produce the prescribed or notified records at the principal place of business as recorded in his certificate of registration; or

(*v*) fails to comply with a direction issued or fails to produce prescribed or notified records and accounts, or cause them to be produced, on or before the date specified in any notice served on him by the Commissioner or by an accountant or a panel of accountants or any other professional or panel of professionals nominated by the Commissioner in this behalf under clause (*a*) of sub-section (*6*) of section 58,

such person shall be liable to pay, by way of penalty, a sum of twenty-five thousand rupees or twenty per cent. of the tax deficiency, if any, whichever is higher.

(*4*) If, any dealer fails to comply with the provisions of section 49, the dealer shall be liable to pay, by way of penalty, a sum equal to one per cent. of his turnover or a sum of fifty thousand rupees, whichever is less.

(*5*) Where a person who is required to prepare records and accounts under this Regulation, prepares records and accounts in a manner that is false, misleading or deceptive, the person shall be liable to pay, by way of penalty, a sum of fifty thousand rupees or the amount of the tax deficiency, if any, whichever is higher.

(*6*) Where a person—

(*a*) has issued a tax invoice or retail invoice with incomplete or incorrect particulars; or

(*b*) having issued a tax invoice or retail invoice, has failed to account it correctly in his books of account,

such person shall be liable to pay, by way of penalty, an amount of three thousand rupees or twenty per cent. of the tax deficiency, if any, whichever is higher.

(*7*) Where a person who is not authorised under this Regulation to issue a tax invoice has issued a tax invoice for a sale,

such person shall be liable to pay, by way of penalty, an amount of fifty thousand rupees or the tax deficiency, if any, whichever is higher.

(*8*) Any person who fails to comply with the requirement under sub-section (*2*) or sub-section (*3*) of section 59 shall be liable to pay, by way of penalty, a sum of twenty-five thousand rupees.

(*9*) Where goods are being carried by a transporter without the documents or without proper and genuine documents or without being properly accounted for in the documents referred to in sub-section (*2*) of section 61, the transporter shall be liable to a penalty equal to twenty paisa in a rupee for the value of such goods.

(*10*) Any person who—

(*a*) makes a statement to the Commissioner which is false, misleading or deceptive in a material particular; or

(*b*) omits from a statement made to the Commissioner any matter or thing without which the statement is false, misleading or deceptive in a material particular,

such person shall be liable to pay, by way of penalty, a sum of twenty-five thousand rupees, or the amount of the tax deficiency, whichever is higher.

Penalties on certain persons.

95. (*1*) Where a casual trader who is required to be registered under this Regulation has failed to apply for registration within stipulated period, the casual trader shall be liable to pay, by way of penalty, an amount equal to three thousand rupees per day, from the day immediately following the expiry of the due date until the person makes an application for registration under this Regulation:

Provided that the amount of penalty payable under this sub-section shall not exceed fifty thousand rupees.

(*2*) If a casual trader required to furnish a return under this Regulation—

(*a*) fails to furnish any return by the due date; or

(*b*) fails to furnish with a return any other document that is required to be furnished with the return,

such person shall be liable to pay, by way of penalty, a sum of five hundred rupees per day from the day immediately following the due date until the failure is rectified:

Provided that the amount of penalty payable under this sub-section shall not exceed fifteen thousand rupees.

(*3*) Where any person who, whether as principal, agent or in any other capacity organises any exhibition-cum-sale in Andaman and Nicobar Islands and fails—

(*a*) to furnish any information in respect of the goods brought or kept in stock or sold by any participant before or during or after the exhibition-cum-sale; or

(*b*) to ensure that all such participants in the exhibition-cum-sale have obtained registration under this Regulation and paid due tax; or

(*c*) to permit inspection of the business premises or goods or account and records of the participants; or

(*d*) to permit inspection of the accounts and records of the organiser in respect of the exhibition-cum-sale,

such person shall be liable to pay, by way of penalty, a sum equal to twenty-five thousand rupees or a sum equal to the amount of tax payable on such goods if such goods were sold in Andaman and Nicobar Islands, whichever is higher.

General penalty.

96. Any person, who contravenes any of the provisions of this Regulation or any rules made thereunder for which no penalty is separately provided under the Act, shall be liable to pay a penalty of five thousand rupees.

Automatic mitigation and increase of penalties.

97. (*1*) Where as a result of any proceedings, the amount of tax with respect to which a penalty was levied has been wholly reduced, the penalty levied shall be cancelled and if the penalty has been paid, it shall be refunded.

(*2*) If—

(*a*) a person is liable to pay a penalty under sub-section (*2*) of section 94; and

(*b*) the person voluntarily discloses to the Commissioner in writing the existence of the tax deficiency before the Commissioner informs the person that an audit of the person's tax obligations is to be carried out,

the amount of the penalty otherwise due shall be reduced by eighty per cent. of the penalty.

(*3*) If—

(*a*) a person is liable to pay a penalty under sub-section (*2*) of section 94; and

(*b*) the person voluntarily discloses to the Commissioner in writing the existence of the tax deficiency after the Commissioner informs the person that an audit of the person's tax obligations is to be carried out,

the amount of the penalty due shall be reduced by fifty per cent. of the penalty.

(*4*) If—

(*a*) a person is liable to pay a penalty under sub-section (*2*) of section 94;

(*b*) the tax deficiency arose because the person treated this Regulation as applying to the person in a particular way; and

(*c*) the decision to adopt that treatment was made by the person relying on a determination given to the person by the Commissioner under section 84 or a ruling issued by the Commissioner under section 85,

the amount of the penalty otherwise due, shall be reduced to *nil*.

(*5*) Where—

(*a*) the penalty under this Regulation has been assessed;

(*b*) the penalty has not been remitted in full after objection; and

(*c*) the person is subsequently assessed to a further penalty in respect of the same or a substantially similar failure occurring on another occasion (hereafter in this section called the "subsequent offence"),

the penalty otherwise due under this Regulation shall be increased by—

(*i*) in the case of the first subsequent offence, fifty per cent. of the specified penalty; and

(*ii*) in the case of the second and any further subsequent offence, one hundred per cent. of the specified penalty.

(*6*) If—

(*a*) a person is liable to pay penalty under section 86; and

(*b*) the person voluntarily discloses to the Commissioner, in writing, the existence of the tax deficiency, during the course of proceedings under section 60; and

(*c*) makes payment of such tax deficiency within three working days of the conclusion of the said proceedings,

the amount of the penalty otherwise due, against the admitted and paid tax, shall be reduced by eighty per cent.

Relationship to assessment and impact on criminal penalties.

98. (*1*) The penalties specified under this Regulation are owed notwithstanding that no assessment of tax owed under this Regulation has been made.

(*2*) Any penalty imposed under this Regulation shall be without prejudice to any prosecution for any offence under this Chapter.

imprisonment and fine for certain acts.

99. (*1*) Whoever—

(*a*) not being a registered dealer, falsely represents that he is or was a registered dealer at the time when he sells or buys goods;

(*b*) knowingly keeps false account or does not keep the account of the value of the goods bought or sold by him in contravention of section 48; or

(*c*) issues to any person a false invoice, bill, cash memorandum, voucher or other document which he knows or has reason to believe to be false,

shall, on conviction, be punishable with rigorous imprisonment for a term which may extend to six months, and with a fine.

(*2*) Whoever knowingly—

(*a*) furnishes a false return;

(*b*) produces before the Commissioner, false bill, cash memorandum, voucher, declaration, certificate, tax invoice or other document for claiming deduction on tax credit; or

(*c*) produces false accounts, registers or documents or knowingly furnishes false information,

he shall—

(*i*) in case where the amount of tax which could have been evaded if the false return, bill, cash memorandum, voucher, declaration, certificate, tax invoice or other document for claiming deduction on tax credit, accounts, registers or documents or false information, as the case may be, had been accepted as true exceeds fifty thousand rupees, on conviction, be punished with rigorous imprisonment for a term which may extend to six months; and

(*ii*) in any other case, with rigorous imprisonment for a term which may extend to six months, and with a fine.

(*3*) Whoever, wilfully attempts, in any manner whatsoever, to evade payment of tax, penalty or interest or all of them under this Regulation, shall, on conviction, be punished—

(*a*) in any case where the amount involved exceeds fifty thousand rupees during the period of a year, with rigorous imprisonment for a term which may extend to six months, and with a fine; and

(*b*) in any other case, with rigorous imprisonment for a term which may extend to three months and with a fine.

(*4*) Whoever—

(*a*) carries on business as a dealer without being registered in wilful contravention of sub-section (*1*) of section 18;

(*b*) fails without sufficient cause to furnish any information required under section 21;

(*c*) fails to surrender his certificate of registration as provided in sub-section (*7*) of section 22;

(*d*) fails without sufficient cause to furnish any returns as required under section 27 by the date or in the manner prescribed;

(*e*) without reasonable cause, contravenes any of the provisions of section 40;

(*f*) without sufficient cause fails to issue invoice as required under section 50;

(*g*) fails without sufficient cause, when directed so to do under section 48 to keep any accounts or record, in accordance with the directions;

(*h*) fails without sufficient cause, to comply with any requirements made of him under section 58 or 59, or obstructs any officer making inspection or search or seizure under sections 60 and 61;

(*i*) obstructs or prevents any officer performing any function under Chapter X;

(*j*) being owner in charge of a goods vehicle fails, neglects or refuses to comply with any of the requirements contained in section 61; or

(*k*) interferes with or obstructs the Commissioner or any officer exercising any other power conferred under this Regulation,

shall, on conviction, be punishable with imprisonment for a term which may extend to six months, and with a fine.

(*5*) Whoever aids or abets any person in the commission of any act specified in sub-sections (*1*) to (*3*) shall, on conviction, be punishable with rigorous imprisonment which may extend to six months, and with a fine.

(*6*) Whoever commits any of the acts specified in sub-sections (*1*) to (*5*) and the offence is a continuing one under any of the provisions of these sub-sections, shall, on conviction, be punishable with a fine of not less than one hundred rupees per day during the period of the continuance of the offence, in addition to the punishments provided under this section.

(*7*) Notwithstanding anything contained in sub-sections (*1*) to (*5*) of this section, no person shall be proceeded under these sub-sections, if—

(*a*) the total amount involved is less than two hundred rupees during the period of a year; or

(*b*) the person has voluntarily disclosed existence of tax deficiency under sub-section (*6*) of section 87.

(*8*) Where a dealer is accused of an offence specified in sub-section (*1*), (*2*) or (*3*) or in clauses (*a*), (*b*), (*c*), (*d*), (*e*), (*f*), (*g*), (*h*) and (*i*) of sub-section (*4*), or sub section (*6*), the person deemed to be the manager of the business of such dealer under section 95 shall also be deemed to be guilty of such offence, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission thereof.

Offences by companies, etc.

100. (*1*) Where an offence under this Regulation or the rules has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Regulation if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Regulation has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(*3*) Where an offence under this Regulation has been committed by a Hindu undivided family, the *Karta* thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render the *Karta* liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence:

Provided further that where an offence under this Regulation has been committed by a Hindu undivided family and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any adult member of the Hindu Undivided Family, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Cognizance of offences.

101. (*1*) No court shall take cognizance of any offence under this Regulation or rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Metropolitan Magistrate shall try any such offence.

2 of 1974.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 all offences punishable under this Regulation or the rules made thereunder shall be cognizable and bailable.

Investigation of offences.

102. (*1*) Subject to such conditions as may be prescribed, the Commissioner may authorise either generally or in respect of a particular case or class of cases any officer or person subordinate to him to investigate all or any of the offences punishable under this Regulation.

2 of 1974.

(*2*) Every officer or person so authorised shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1973 upon an officer in charge of a police station for the investigation of a cognizable offence.

Compounding of offences.

103. (*1*) The Commissioner may, before the institution of proceedings for any offence punishable under sub-section (*4*) of section 89 or under any rules made under this Regulation, accept from any person charged with such offence by way of composition of offence, a sum not exceeding fifty thousand rupees or a sum not exceeding three times the amount of tax which would thereby have been avoided, whichever is higher.

(*2*) On payment of such sum as may be determined by the Commissioner under sub-section (*1*), no further proceedings shall be taken against such person in respect of the same offence.

2 of 1974.

Chapter XXXVI of the Code of Criminal Procedure, 1973, Not to Apply in Certain case.

104. Nothing contained in Chapter XXXVI of the Code of Criminal Procedure, 1973 shall apply to—

(*a*) any offence punishable under this Regulation; or

(*b*) any other offence which under the provisions of that Code may be tried along with such offence, and every offence referred to in clause (*a*) or clause (*b*) above may be taken cognizance of by the court having jurisdiction under this Regulation as if the provisions of that Chapter were not enacted.

CHAPTER XIV

MISCELLANEOUS

Dealer to declare the name of manager of business, Permanent Account Number and Importer Exporter Code.

105. (*1*) Every dealer being a Hindu Undivided Family or an association of persons or club or society or firm or company or any person or body who is engaged in business as the guardian or trustee or otherwise on behalf of another person, and who is liable to pay tax under this Regulation, shall, within the period prescribed, furnish a declaration in the manner prescribed, stating the name of the person or persons who shall be deemed to be the manager or managers of such person's business for the purposes.

(*2*) The declaration furnished under sub-section (*1*) may be revised from time to time as required.

43 of 1961.

(*3*) Every dealer at the time of applying for registration under this Regulation shall mention the Permanent Account Number obtained under the Income-tax Act, 1961:

43 of 1961.

Provided that the dealers already registered under this Act shall intimate their Permanent Account Number obtained under the Income-tax Act, 1961 in the prescribed form, within a period of two months from the date of issuance of notification of this amendment.

22 of 1992.

(*4*) Every dealer liable to pay tax under this Regulation and having an Importer Exporter Code under the provisions of the Foreign Trade (Development and Regulation) Act, 1992, shall mention the Importer Exporter Code, at the time of applying for registration under this Regulation:

Provided that the dealers already registered under the Act and having Importer Exporter Code under the provisions of the Foreign Trade (Development and Regulation) Act, 1992, shall intimate the details in the prescribed form, within a period of two months from the date of issuance of notification of this amendment: 22 of 1992.

Provided further that every dealer registered under the Act, who obtains an Importer Exporter Code under the provisions of the Foreign Trade (Development and Regulation) Act, 1992, subsequently shall provide the Code details in the prescribed form, within a period of fifteen days from the date of obtaining such Code. 22 of 1992.

(*5*) Any person who fails to furnish a declaration or, as the case may be, a revised declaration as provided in sub-section (*1*) and sub-section (*2*) or fails to provide details of the Permanent Account Number obtained under the Income-tax Act, 1961, as provided in sub-section (*3*) or fails to provide the Importer Exporter Code under the provisions of the Foreign Trade (Development and Regulation) Act, 1992 as provided in sub-section (*4*), shall be liable to pay, by way of penalty, sum equal to one thousand rupees per week of default subject to a maximum of fifty thousand rupees. 43 of 1961. 22 of 1992.

Service of notice when family is disrupted or firm is dissolved.

106. (*1*) Where a Hindu Undivided Family has been partitioned, notices under this Regulation shall be served on the person who was the last manager of the Hindu Undivided Family, or if such person cannot be found, then, on all adults who were members of the Hindu Undivided Family, immediately before the partition.

(*2*) Where a firm or an association of persons is dissolved, notices under this Regulation may be served on any person who was a partner (not being a minor) of the firm, or member of the association, as the case may be, immediately before its dissolution.

Service of notice in the case of discontinued business.

107. Where an assessment is to be made in respect of business which has been discontinued, a notice under this Regulation shall be served in the case of a firm or an association of persons or any person who was a member of such firm or association at the time of its discontinuance or in the case of a company on the principal officer thereof.

Returns, etc., to be confidential.

108. (*1*) All the particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Regulation, or in any record of evidence given in the course of any proceedings under this Regulation, other than proceedings before a criminal court, shall, save as provided in sub-section (*3*), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as aforesaid, be entitled to require any servant of the Government to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof. 1 of 1872.

(*2*) If, save as provided in sub-section (*3*), any servant of the Government discloses any of the particulars referred to in sub-section (*1*), he shall be punishable with imprisonment for a term which may extend to six months, and shall also be liable to a fine.

(*3*) Nothing contained in this section shall apply to the disclosure—

(*a*) of any of the particulars referred to in sub-section (*1*) for the purposes of investigation or prosecution under this Regulation or the Indian Penal Code or any other enactment for the time being in force; 45 of 1860.

(*b*) of such facts to an officer of the Central Government or any State Government as may be necessary for the verification of such facts or for the purposes of enabling that Government to levy or realise any tax imposed by it;

(*c*) of any such particulars where such disclosure is occasioned by the lawful employment under this Regulation of any process for the service of any notice or the recovery of any demand;

(*d*) of any such particulars to a civil court in any suit or proceeding to which the Government or any Value Added Tax authority is a party and which relates to any

matter arising out of any proceeding under this Regulation or under any other law for the time being in force authorising any Value Added Tax authority to exercise any powers thereunder;

(*e*) of any such particulars by any public servant where the disclosure is occasioned by the lawful exercise by him of his powers under the Indian Stamp Act, 1899 to impound an insufficiently stamped document;

2 of 1899.

(*f*) of any such particulars to the Reserve Bank of India as are required by that Bank to enable it to compile financial statistics of international investment and balance of payment;

(*g*) of any such particulars to any officer appointed by the Comptroller and Auditor-General of India for the purpose of audit of tax receipts or refunds;

(*h*) of any such particulars relevant to any inquiry into a charge of misconduct in connection with income-tax proceedings against a legal practitioner or chartered accountant, to the authority empowered to take disciplinary action against members of the profession to which he belongs;

(*i*) of such particulars to the officers of the Central Government or any State Government for such other purposes, as the Government may, by general or special order, direct; or

(*j*) of any information relating to a class of dealers or class of transactions, if, in the opinion of the Commissioner it is desirable in the public interest to publish such information.

Publication and disclosure of information in respect of dealers and other persons in public interest.

109. (*1*) Notwithstanding anything contained in this Regulation, if the Government is of the opinion that it is necessary or expedient in the public interest to publish or disclose the names of any dealers or other persons and any other particulars relating to any proceedings under this Regulation in respect of such dealers and persons, it may publish or disclose or cause to be published or disclosed such names and particulars in such manner as it thinks fit.

(*2*) No publication or disclosure under this section shall be made in relation to any tax levied or penalty imposed or interest levied or any conviction for any offence connected with any proceeding under this Regulation, until the time for presenting an appeal to the appropriate appellate body has been expired without an appeal having been presented or the appeal, if presented has been disposed of.

Power to collect statistics.

110. (*1*) If the Commissioner considers that for the purposes of the better administration it is necessary so to do, he may by notification in the Official Gazette, direct that statistics be collected relating to any matter dealt with, by or in connection with this Regulation.

(*2*) Upon such direction being made, the Commissioner or any person or persons authorised by him in this behalf may call upon all dealers or any class of dealers or persons to furnish such information or statements as may be stated therein relating to any matter in respect of which statistics are to be collected and the form in which the persons to whom or, the authorities to which, such information or returns should be furnished, the particulars which they should contain, and the intervals in which such information or returns should be furnished, shall be such as may be prescribed:

Provided that the call for information may be made by notification in the Official Gazette, by notice in newspapers or in such other manner as, in the opinion of the Commissioner or the said person, is best calculated to bring to the attention of the dealers and other persons.

(*3*) Without prejudice to the generality of the foregoing provisions, the Government may by rules provide that every dealer or, as the case may be, any class of dealer shall furnish such statements as may be prescribed, with the self assessment, and different provisions may be made for different classes of dealers.

(*4*) (*a*) The Government may, by notification in the Official Gazette, provide that the provisions contained in the Information Technology Act, 2000, as amended from time to time, and the rules made and directions given under that Act, including the provisions relating to digital signatures, electronic governance, attributation, acknowledgement and dispatch of electronic records, secure electronic records and secure digital signatures and digital signature certificates as are specified in the said notification, shall, insofar as they may, as far as feasible, apply to the procedures under this Regulation. 21 of 2000.

(*b*) Where a notice or communication is prepared on any automated data processing system and is properly served on any dealer or person, then, the said notice or communication shall not be required to be personally signed by the Commissioner or any other officer subordinate to him, and the said notice or communication shall not be deemed to be invalid only on the ground that it is not personally signed by the Commissioner.

Setting up of check-posts and barriers.

111. The Government may, by notification in the Official Gazette, set up check-posts or barriers, or both, at any place in Andaman and Nicobar Islands with a view to prevent evasion of tax and other dues payable under this Regulation.

Power to make rules.

112. (*1*) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) documents, testimony or other evidence constituting adequate proof under this Regulation;

(*b*) services which may constitute business under clause (*i*) of sub-clause (*d*) of sub-section (*1*) of section 2;

(*c*) activities referred to under clause (*ii*) of sub-clause (*j*) of sub-section (*1*) of section 2;

(*d*) tax period referred to under sub-clause (*zi*) of sub-section (*1*) of section 2;

(*e*) time within which the return may be furnished;

(*f*) the further period referred to under sub-section (*6*) of section 3;

(*g*) the conditions and the method subject to which the amount to be included in the turnover of a dealer engaged in works contract may be determined under section 5;

(*h*) conditions subject to which the dealers may be exempted from payment of tax under section 6;

(*i*) the conditions subject to which a dealer can make adjustments to tax in relation to the sale of goods under section 8;

(*j*) the method to be used by a dealer to calculate the amount of tax credit under section 9 or section 10;

(*k*) the time at which the turnover, turnover of purchase or adjustment of tax or tax credit may arise under sub-section (*4*) of section 12;

(*l*) form of statements, manner, conditions and restriction subject to which credit may be claimed for stock brought forward during transition under section 14;

(*m*) the circumstances and the conditions subject to which, a dealer may be permitted to pay tax by way of composition under section 16;

(*n*) the procedure and forms relating to casual dealers under section 16;

(*o*) the procedure for and other matters incidental to the registration of dealers under section 19;

(*p*) form in which the statement of trading stock is to be furnished under sub-section (*2*) of section 20;

(*q*) the amount of tax credit allowed to a dealer under sub-section (*3*) of section 20;

(*r*) matters relating to amendment of registration certificate under section 21;

(*s*) matters relating to cancellation of registration certificate under section 22;

(*t*) the conditions, amount, manner, time within which and other matters incidental to the security required under section 25;

(*u*) the manner in which, the time by when, the information to be included and the form in which the returns under section 26 or section 27 are to be furnished;

(*v*) the manner in which any tax, interest, penalty or any other amount due under this Regulation is to be paid;

(*w*) the restrictions and conditions subject to which and the manner and the time within which the application for refund may be made under section 41;

(*x*) the manner and the form in which the recovery certificate under section 43 is to be served and the amount mentioned in the said certificate is to be recovered;

(*y*) the manner and form in which the accounts and records are to be prepared under sub-section (*3*) of section 48;

(*z*) the turnover, the form of the audit report, the particulars to be set forth in such report and the time of furnishing such report under section 49;

(*za*) the amount referred to in sub-section (*4*) of section 50 or the conditions and restrictions referred to in sub-section (*8*) of section 50;

(*zb*) the particulars to be contained in the debit or credit notes under section 51;

(*zc*) the conditions subject to which the Commissioner may require any person to produce records, books of account, registers and other documents, answer questions or prepare and furnish additional information under sub-section (*2*) of section 59;

(*zd*) records that an owner or person in charge of a goods vehicle shall carry with him in respect of the goods carried in the goods vehicle under sub-section (*2*) of section 61 and form, manner and amount of security under sub-section (*5*) of the said section;

(*ze*) the manner in which an auction of goods or a goods vehicle shall be carried out under section 63;

(*zf*) the restrictions and conditions subject to which the Commissioner may delegate his powers, and the form of evidence of such delegation under section 68;

(*zg*) the form and manner in which an objection under section 74 or an application for review under sub-section (*11*) of said section may be filed and the fee payable in respect thereof;

(*zh*) the form and manner in which appeals may be filed under section 76, the manner in which such appeals shall be verified and the fees payable in respect thereof;

(*zi*) amount of fee under section 81;

(*zj*) qualifications to be possessed by a Value Added Tax Practitioner under section 82;

(*zk*) manner in which an application may be made and the period within which the determination shall be made under section 84;

(*zl*) conditions subject to which, the Commissioner may authorise any officer or person subordinate to him to conduct investigations under section 92;

(*zm*) period within which and the manner in which the declaration or the communication under section 95 is to be furnished;

(*zn*) the manner in which, and the time within which, applications shall be made (including fees payable in respect thereof), information furnished, securities given and notices served under this Regulation;

(*zo*) any other matter which is required to be, or may be, prescribed.

(*3*) Without prejudice to any provision made in this behalf, any rule made under this Regulation may be made so as to be retrospective to any date not earlier than the date of commencement:

Provided that no rule shall be given effect retrospectively if it would have the effect of prejudicially affecting the interests of a dealer.

(*4*) In making any rules under this section, the Government may direct that a breach thereof shall be punishable with fine not exceeding five thousand rupees and, when the offence is a continuing one, with a fine not exceeding two hundred rupees per day during the continuance of such offence.

Power to amend Schedules.

113. If the Government is of opinion that it is expedient in the interest of general public so to do, it may, by notification in the Official Gazette, add to, or omit from, or otherwise amend, the First, the Second, the Third and the Fourth Schedules, prospectively, and thereupon the said Schedules shall be deemed to have been amended accordingly:

Provided that no such amendment shall be made retrospectively if it would have the effect of prejudicially affecting the interests of a dealer.

Power to remove difficulties.

114. (*1*) If any difficulty arises in giving effect to the provisions, the Government may, by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions as appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiration of two years from the date of commencement of this Regulation.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Application to sales and purchases.

115. (*1*) The tax imposed by section 3 applies to every—

(*a*) sale, including an instalment sale and hire purchase of goods, made on and after the 1st day of July, 2017;

(*b*) sale in the form of the transfer of a right to use goods, to the extent that the right to use goods is exercised after the 1st day of July, 2017.

(*2*) Tax credits arising under section 9 shall be allowed for—

(*a*) a purchase, including a purchase under an instalment sale and hire purchase of goods, made on and after the 1st day of July, 2017; and

(*b*) a purchase occurring in the form of the acquisition of a right to use goods, to the extent that the right to use goods is exercised after the 1st day of July, 2017.

(*3*) Where an amount is paid or received prior to first day of July, 2017 in respect of a sale or purchase occurring after 1st July, 2017, and the person calculates his turnover or turnover of purchases based on amounts paid and received, the amount shall be treated as

forming part of the person's turnover or turnover of purchases in the tax period in which the sale occurs.

Repeal and savings.

116. (*1*) The Port Blair Municipal Council Octroi Tax Bye-Laws, are hereby repealed.

(*2*) Notwithstanding anything contained in sub-section (*1*), such repeal shall not affect the previous operation of the said bye-laws or any right, title, entitlement, obligation or liability already acquired, accrued or incurred thereunder.

(*3*) For the purposes of sub-section (*2*), anything done or any action taken including any appointment, notification, notice, order, rule, form or certificate in the exercise of any powers conferred by or under the said bye-laws shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Regulation, as if this Regulation were in force on the date on which such thing was done or action was taken, and all arrears of tax and other amounts due at the commencement may be recovered as if they had accrued under this Regulation.

FIRST SCHEDULE

[*See* section 4 (*1*)]

LIST OF GOODS TO BE TAXED

Sl. No.	Description of Goods	Rate of Tax
1.	Petroleum Crude	10 per cent.
2.	High Speed Diesel	10 per cent.
3.	High Speed Diesel (Ship)	10 per cent.
4.	Motor Spirit (Commonly known as petrol)	10 per cent.
5.	Natural Gas	10 per cent.
6.	Aviation Turbine Fuel	10 per cent.
7.	IMFL	10 per cent.
8.	Beer	10 per cent.

THE SECOND SCHEDULE

(*See* section 6)

LIST OF GOODS TO BE EXEMPTED

Sl. No.	Description of Goods	Rate of Tax
	NIL	

THE THIRD SCHEDULE

[*See* section 9 (*1*)(*b*)]

NON-CREDITABLE GOODS

Sl. No.	Description of Goods	Rate of Tax
	NIL	

THE FOURTH SCHEDULE

[*See* section 41 (*1*)]

BODIES ENTITLED TO CLAIM A REFUND OF TAX PAID ON GOODS PURCHASED

Sl. No.	Name of Organisation	Conditions
	NIL	

RAM NATH KOVIND,
President.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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